

2024.PHHC:072120

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**CRM-M-2844-2024**  
**Date of decision: 21.05.2024**

## Versus

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2. It is, *inter alia*, contended by learned counsel for the petitioner that the petitioner is innocent and has been falsely implicated in this case. He contends that the petitioner is in custody since 06.10.2023 and challan has since been presented in the Court, as such, the petitioner is not required for further investigation. He contends that



even as per the case of the prosecution, the petitioner was found keeping in possession of 20 grams of heroin when apprehended by the police which does not fall within the purview of commercial quantity. Hence, the present petition for grant of regular bail.

3. *Per contra*, learned State counsel has opposed the grant of bail to the petitioner on the ground that he is having 06 other cases registered against him, 03 of them under the NDPS Act. He further submits that challan in this case has since been presented in the Court after completion of investigation but none of 10 witnesses, as cited by the prosecution, have yet been examined.

4. After hearing the respective submissions and considering the record, it transpires that as per the case of the prosecution, the petitioner was apprehended by the police while keeping in his possession 20 grams of heroin; the petitioner was arrested on 06.10.2023 and since then he is in custody; after completion of investigation, challan has since been presented in the Court and the prosecution has cited 10 witnesses but none of them has been examined till date. So far as other cases are concerned, the petitioner is admittedly on bail therein and the conclusion of trial to ascertain the criminal liability, if any, of the petitioner will take sufficient long time and in these circumstances, as observed, no purpose would be served in keeping the petitioner in custody any longer to face the incarceration



till the conclusion of trial. Accordingly, without commenting on the merits of the case, instant petition is allowed and the petitioner is ordered to be released on bail on his furnishing surety bonds/bail bonds to the satisfaction of Trial Court/Duty Magistrate.

5. The petitioner shall give the undertaking that he will not leave the country without prior permission of the Court; will regularly appear before the trial Court on each and every date; in case of some exigency, he will seek prior permission of the concerned Court qua his exemption to appear on the date fixed and he will not tamper with evidence of prosecution in any manner.

6. It is further made clear that in case the petitioner is found involved in any case under the NDPS Act, after his release on bail, it will be open for the prosecution to move an application for cancellation of his bail in accordance with the law.

7. However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is only meant for the purpose of decision of present petition.

8. Petition stands allowed.

21.05.2024  
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(SANJIV BERRY)  
JUDGE

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|-----|----------------------------|--------|
| i)  | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable?        | Yes/No |