

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-7876-2024
Date of Decision:27.02.2024

Nirmal Kumar @ Nimma ...Petitioner

vs.

State of Punjab ...Respondent

Coram : Hon’ble Mr. Justice N.S.Shekhawat

Present : Mr. Ashok Kumar Khunger, Advocate
for the petitioner.

Mr. Shiva Khurmi,AAG, Punjab.

N.S.Shekhawat J. (Oral)

1. The petitioner has filed the present petition under Section 439 Cr.PC with a prayer to grant regular bail to him in case FIR No. 121 dated 16.11.2023, registered under Section 21 of NDPS Act, Police Station City-2,Abohar District Fazilka.
2. As per the case of the prosecution on 16.11.2023, the petitioner was apprehended by the police, while he was carrying 07 grams of heroin, which is “non-commercial” in nature.
2. Learned counsel for the petitioner contends that the petitioner is in custody since 16.11.2023 and the recovery of the contraband from the present petitioner falls within the ambit of “non-commercial” quantity and the rigors of Section 37 of the NDPS Act would not apply to the facts of the present case. Learned counsel next contends that one more case under Section 18 of the NDPS Act was registered against the present petitioner, however, the petitioner

was granted the concession of bail in the said case vide order dated 08.07.2020 (Annexure P-2).

2. On the other hand learned State counsel has vehemently opposed the submissions made by learned counsel for the petitioner on the ground that serious allegations have been levelled against the present petitioner and does not deserve the concession of bail by this Court.

3. I have heard the learned counsel for the parties and perused the record carefully.

4. It is not in dispute that the petitioner was arrested in the present case on 16.11.2023 and is in custody since then and the quantity of contraband allegedly recovered from the present petitioner falls within the ambit of “non-commercial quantity”.

5. Without commenting on the merits of the case, the present petition is allowed. The petitioner is ordered to be released on bail pending trial on his furnishing bail bonds and surety to the satisfaction of the concerned trial Court/ Duty Magistrate/Chief Judicial Magistrate subject to the following conditions:-

(i) The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him to disclose such facts to the Court or to any other authority.

(ii) The petitioner shall remain present before the Court on the dates fixed for hearing of the case.

(iii) The petitioner shall not absent himself from the Court proceedings except on the prior permission of the Court concerned.

(iv) The petitioner shall surrender his passport, if any, (if already not surrendered), and in case he is not holder of the same, he shall swear an affidavit to that effect.

(v) The petitioner shall also file his affidavit before the concerned Court, mentioning his ordinary place of residence and number of mobile phone, which shall be used by him during the pendency of the trial. In case of change of place of residence/mobile number, he shall share the details with the concerned Court/learned Trial Court.

- (vi) *In case, the petitioner is involved in any other criminal activity, during the pendency of the trial, it shall be viewed seriously.*
- (vii) *The concerned Court may insist on two heavy local sureties and may also impose any other condition, in accordance with law, while accepting the bails bonds and surety bonds of the petitioner.*

6. In case, the petitioner violates any of the conditions mentioned above, it shall be viewed seriously and the concession of bail granted to him shall be liable to be cancelled and the prosecution shall be at liberty to move an application in this regard.

27.02.2024
hitesh

(N.S.SHEKHAWAT)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No