

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Date of Decision: 20.11.2024

...Respondents

2. Learned counsel for the petitioner contends that the petitioner was not named in the FIR initially and has been nominated as an accused on the basis of the disclosure statement suffered by Gurcharan Singh, co-accused, who was arrested on 16.04.2024. He further contends that even from the co-accused, 438 grams of opium was recovered, which falls within the ambit of “non-commercial quantity”. Learned counsel further contends that the petitioner was arrested in the present case on 07.06.2024 and after completion of

investigation, challan has already been presented against him. He further contends that since the quantity of contraband, allegedly recovered from the co-accused, is non-commercial in nature, the rigors of Section 37 of the NDPS Act would not apply to the facts of the present case.

3. On the other hand, learned State counsel has filed the custody certificate of the petitioner and the same is taken on record. Reply has been filed by respondent No.1 in Court today and the same is also taken on record. Learned counsel for the respondents have vehemently opposed the submissions made by learned counsel for the petitioner on the ground that the petitioner is a hardened criminal and 10 criminal cases were ordered to be registered against him. However, he admits that the petitioner has been acquitted in three cases and in two cases, cancellation report has already been accepted.

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

5. The petitioner is in custody for the last more than 05 months. Moreover, the quantity of contraband recovered from the co-accused is non-commercial in nature. Further, the conclusion of the trial may take quite a long time and custody of the petitioner will not serve any meaningful purpose.

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

20.11.2024.
hemlata

(N.S.SHEKHAWAT)
JUDGE

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