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

CRM-M-42645-2024

Date of Decision: 30.09.2024

Tinku

...Petitioner

VS.

State of Haryana

...Respondent

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

Present : Mr. Parveen Sharma, Advocate
for the petitioner.

Ms. Sheenu Sura, DAG, Haryana.

N.S.Shekhawat J. (Oral)

1. The petitioner has filed the instant petition under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 with a prayer to grant regular bail in case FIR No.165 dated 08.06.2024 registered under Section 21 of NDPS Act, at Police Station Civil Lines, Sonapat District Sonapat.

2. Learned counsel for the petitioner contends that as per the case of the prosecution, 17 grams of heroin was recovered from the petitioner, however the said recovery is “non-commercial” in nature. He further contends that the bar contained in Section 37 of the NDPS Act would not apply to the facts and circumstances of the present case. The petitioner was arrested in the present case on 08.06.2024 and is in custody for the last more than 03 months. After completion of the investigation, the challan has already been presented before the Court and his further custody will not serve any meaningful purpose.



3. 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 petitioner. She further contends that two more cases i.e. FIR No. 179 dated 19.05.2021, under Sections 457, 380 of IPC, Police Station, IMT, Rohtak and another FIR No. 20 dated 16.01.2024, under Section 21 of NDPS Act, Police Station City Sonipat, District Sonipat were registered against the petitioner, however, she admits that the petitioner is on bail in both the cases.

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

5. The petitioner was found in conscious possession of 17 grams of heroin, without any permit or license in the present case and the said quantity of contraband is non-commercial in nature. Apart from that, two more cases were ordered to be registered against the petitioner, but he is on bail in the said cases. Further, the petitioner has undergone more than 03 months of custody and his further detention as an under trial prisoner is not required.

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, 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 involves 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.*

30.09.2024.
hemlata

(N.S.SHEKHAWAT)
JUDGE

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