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

CRM-M-52526-2023

Date of Decision:06.02.2024

Rajneet @ Sunny

...Petitioner

VS.

State of Haryana

...Respondent

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

Present : Mr. G.C. Shahpuri, Advocate
for the petitioner.

Ms. Sheenu Sura, DAG, Haryana.

N.S.Shekhawat J. (Oral)

1. The petitioner has filed the instant petition under Section 439 of the Cr.P.C. with a prayer to grant regular bail to him in case FIR No.608 dated 08.09.2023 registered under Sections 21-B, 29 of NDPS Act, 1985, at Police Station Palla, District Faridabad.

2. As per case of the prosecution, on receipt of a secret information, the petitioner was intercepted by a police team and 5.10 grams of smack was recovered from the conscious possession of the petitioner.

3. Learned counsel for the petitioner contends that the petitioner has been falsely involved in the present case and the procedure relating to search and seizure was not followed by the police. Learned counsel further contends that certain police officials of Police Station Palla were inimical towards him and have falsely involved him. He further contends that the quantity of 5.10 grams of smack does not fall within the ambit of 'commercial quantity' and as

such the bar of provisions contained in Section 37 of the NDPS Act would not apply to the facts of the present case. The petitioner was in custody since 10.08.2023 and the investigation has been almost completed in the present case.

4. On the other hand, learned State counsel has vehemently opposed the submissions made by learned counsel for the petitioner on the ground that the petitioner is the main accused in the present case and the recovery was effected from him. She further contends that 3 more cases i.e. FIR No.609 dated 08.09.2023 under Section 21, 29 of NDPS Act, Police Station Palla, Faridabad, FIR No.638 dated 24.07.2018, under Sections 363, 366-A of IPC, Section 4 of POCSO Act and Sections 3/33/89 of SC/ST Act, Police Station Sarai Khwaja and FIR No.66 of 2023 under Sections 20/61/85 of NDPS Act, Police Station Palla, Faridabad were ordered to be registered against the present petitioner. However, she admits that the petitioner is on bail in the said three cases.

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

6. It is apparent from the record that the petitioner was arrested on 10.08.2023 and is in custody for the last more than 4 months. Apart from that, the quantity of contraband allegedly recovered from the petitioner is non-commercial in nature.

7. Thus, 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 and the prosecution shall be at liberty to move a petition for cancellation of bail granted to him.*
- (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 bail bonds and surety bonds of the petitioner.*
- (viii) *The petitioner shall report every 1st Monday of English calander month before the concerned SHO till the conclusion of the trial and SHO shall mark his presence by making an entry in the rojnamcha. In case, he does not report on every 1st Monday before the concerned SHO, it shall be viewed seriously and the concession granted to him shall be liable to be cancelled and the State of Haryana shall be at liberty to move an appropriate application in this regard.*

06.02.2024
hemlata

(N.S.SHEKHAWAT)
JUDGE

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