



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

235**CRM-M-51868-2024****Date of Decision: 24.10.2024****DURGESH**

...Petitioner

Vs.

STATE OF HARYANA

...Respondent

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Suresh Nain, Advocate for
Mr. Rohit Kumar, Advocate
for the petitioner.

Mr. Rajinder Kumar Banku, DAG, Haryana.

N.S.SHEKHAWAT, J. (Oral)

1. The petitioner has filed the instant petition under Section 483 of the Bharatiya Nagrik Suraksha Sanhita, 2023 with a prayer to grant a regular bail to the petitioner in case FIR No.184 dated 16.06.2024 registered under Section 15 of Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station Model Town, District Panipat.

2. The FIR in the present case was registered on the basis of the statement made by the Assistant Excise and Taxation Commissioner, Panipat and the same reads as under:-

“The nature of the complaint is criminal type, To SHO police station Model Town Panipat. Sir, it is submitted that the I Anubhav Puniya assistant excise and taxation commissioner O/O Dy. excise and taxation (Sales tax),•



Panipat was on duty along with my staff and employees namely 1. Rajesh Kumar taxation inspector, 2. Rakesh Kumar peon, 3. Vipin Peon, 4. Dalveer peon, work on government vehicle number HRF 06 GV GV 7492 bolero driven by driver Sukhviri, on routine roadside checking opposite government school village Maharana, Gohana road Panipat. Then we got a private bus stopped i.e. Bearing number NL 02 B 3899. The bus was checked in the presence of driver bus driver Krishna Kumar son of Rameshwar Prasad president of Daren colony jogiya bass Sahpura, Jaipur Rajasthan and conductor namely Sandeep Kumar son of Ganapat resident of village Bhagina, post office Kala, Tehsil Pilani district Jhunjhnu. During checking of the bus, in the left side, storage space near rear tyre, too heavy Cardboard found, having doubted contraband under NDPS act, because I am authorized custom officer under the E Section 42 megabits per second I asked the driver Krishna Kumar and conductor Sandeep Kumar they told that this contraband belonged to passenger sitting on seat No. 7, On asking they presented before me the person who was sitting on seat no.7. On my asking the said person A told his name as Durgesh S/O Babulal village Bohada Tehsil Bari Sadri PS Bari Sadri District Chittorgarh Rajasthan and about the Cardboard kept in storage box of the bus he told that these two boxes are of him. In the presence of driver krishan kumar hand conductor Sandeep Kumar and above sat durgesh Kumar, I opened the boxes then from my experience I found that this was poppy straw. About this I informed to Sri Satish Kumar DSP HSNCB Madhuban on his mobile



number 9996021755 from my mobile number 9416190007 at time about 7:19 AM on 16/06/2024. For further action, I presented before you the driver Krishna Kumar, conductor Sandeep Kumar and the apprehended person namely Durgesh along with both the paper boxes. SD/-Anubhav 16/6/2024, Assistant Excise and Taxation Officer”

3. Learned counsel for the petitioner contends that even as per the case setup by the prosecution, 33 kgs 490 grams of poppy husk was allegedly recovered from the petitioner, which he was carrying without any permit or license. Learned counsel further submits that since the quantity of contraband allegedly recovered from the petitioner falls within ambit of “intermediate quantity”, as per the schedule appended to Narcotic Drugs and Psychotropic Substances Act, 1985 the rigours of Section 37 of the Narcotic Drugs and Psychotropic Substances Act, 1985 would not apply to the facts of the present case. The petitioner was arrested in the present case on 16.06.2024 and challan has already been presented against him. He further contends that charge has not been framed against the petitioner and the trial has not yet started. Thus, the petitioner deserves to be enlarged on bail.

4. On the other hand, learned State counsel has vehemently opposed the prayer made by the learned counsel for the petitioner on the ground that there are serious allegations against the petitioner.



However, he admits that there is no any other criminal case ever registered against the petitioner.

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

6. In the present case, the petitioner was arrested on 16.06.2024 and after completion of investigation, final report under Section 173 Cr.P.C. has already been presented against him. Still further the quantity of contraband, which was recovered from the petitioner falls within the ambit of “intermediate quantity” and the provisions of Section 37 of the Narcotic Drugs and Psychotropic Substances Act, 1985 may not be applied in the present case.

7. In view of the above, without commenting any further on the merits, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of the learned trial Court/Duty Magistrate/CJM concerned.

24.10.2024

(N.S.SHEKHAWAT)

M.Sikka

JUDGE

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