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

CRM-M-17632-2025

Date of Decision:07.04.2025

VINAY KUMAR @ CHEMA

...PETITIONER

VS.

STATE OF HARYANA

...RESPONDENT

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

Present : Mr. Jagdeep Singh Rana, Advocate
for the petitioner.

Mr. Rajiv Sidhu, DAG, Haryana.

N.S.Shekhawat J. (Oral)

1. The petitioner has filed the present petition under Section 483 of B.N.S.S., with a prayer to grant regular bail to him in case FIR No.164 dated 09.05.2022, registered under Sections 21 & 61 of NDPS Act 1985 (Section 29 added later on) Police Station Sarai Khawaja, Faridabad, District Faridabad.
2. The FIR in the present case was registered on the basis of the complaint filed by SI Surender Singh and the same has been reproduced below:-

*“To, SHO Sahib Police Station Sector 37 Sarai Khawaja
Faridabad Jai Hind Today I SI along with HC Anand 283 and
Constable Nitin 3343 riding private vehicle Bolero were present
near Sarai Toll Tax in connection with patrolling and crime*



detection When secret informer gave information that Anuj son of Vivekanand resident of Madhubani Bihar who deals in delivery of smack has come from Bihar 34 days ago and that today he shall be coming to Faridabad via GT out near Lakkapur Fatak in order to supply smack 1 SI shared the information with companions and sent a written application by hand to the police station through Ct Nitin for obtaining the permission for nakabandi After taking permission for nakabandi police party installed barricade at GT Road cut near Lakkarpur Fatak and started keeping a watch in civil dress. During this period secret informer was called and he was asked to help the police party by making signal towards the police party In the meantime many people were passing near the place of nakabandi as also the place of monitoring but even after great effort none of them was ready to help Everyone disclosed their inability and went away After 30 minutes of nakabandi secret informer signaled to police party towards a boy and thereafter he went away from the spot 1 SI with the help of companions apprehended the boy as disclosed by secret informer He was carrying a polythene bag in his right hand On my asking the young boy disclosed his name as Anuj son of Vivekanand Jha resident of village Kyota Police Station Kilwal Distt Madhubani Bihar I asked him about the articles kept in the polythene bag but he could not give any satisfactory reply The police party was having information that there is smack in the polythene bag hence Anuj was served notice under Section 50 NDPS Act The young boy gave his consent in writing for getting conducted search of polythene bag carried by him in his hand in the presence of some Higher Officer Therefore 1 SI contacted Nodal Officer under NDSP Act Sh Istaq SDO Irrigation Department FBD on his mobile No9812260652 and requested him to reach at the spot After some time DSP Sahib came at the spot in his Govt vehicle I narrated the facts to him SDO Sahib instructed me SI to search the polythene bag of Anuj On search smack was recovered from polythene



piecelying in the polythene bag The recovered narcotic substance smack was weighed including the weight of polythene bag which came to be 252 GM The weight of polythene bag was 22 GM meaning thereby the weight of fresh smack was 230 GM. The recovered smack was converted into parcel was sealed by SDO Sahib with his seal bearing letters KK as also by me SI with seal bearing letters SS Sample seal was prepared separately SDO Sahib kept his seal with himself 1 SI handed over the seal to HC Anand The parcel of intoxicant substance was taken into police possession through a separate recovery memo Memo was signed by the accused and witness Anuj has committed offence under section 216185 NDPS Act by keeping intoxicant substance smack in his possession. Therefore proceeding hence been written and same are being sent to the police station by hand through Ct Nitin After registration of case the case number be informed Send 10 for further investigation Special report be sent to the higher officers 1 SI along with companions accused and case property are present at the spot At Lakkarpur fatak cut GT Road FBD Sd SI 145 Surender Singh CB DLF FBD Dt 9522 at 0810 PM MOB No. 9911967849.”

3. Learned counsel for the petitioner contends that the petitioner was neither named in the FIR nor he was present at the place of occurrence. As per the case of the prosecution, Anuj, co-accused was arrested by the police, while he was carrying 230 grams of smack without any permit or licence. Even the said recovery from the co-accused falls within the ambit of “intermediate quantity” and Anuj, co-accused has been granted the concession of regular bail vide order dated 19.01.2023 (Annexure P-2) by this Court. He further contends that even though the petitioner was declared as a proclaimed offender in the present case, but he was arrested on 18.02.2025. He further contends that after



the arrest of the petitioner, the investigation has been completed and challan has been filed against him.

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 was declared as a proclaimed offender and there is a well founded apprehension that he might abscond from the process of the law and he does not deserve the concession of bail by this Court.

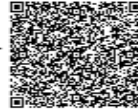
5. I have heard the learned counsel for the parties and perused the record.

6. The petitioner was arrested in the present case on 18.02.2025 and challan has been presented against him. Since the main accused Anuj has been granted the concession of regular bail vide order dated 19.01.2023 (Annexure P-2), further custody of the petitioner will not serve any useful purpose. Still further, the apprehension expressed by learned State counsel can be allayed by imposing stringent conditions on the petitioner, while granting the concession of bail.

7. 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.

8. 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.

07.04.2025
vipin

(N.S. SHEKHAWAT)
JUDGE

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