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**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

(293)

**CRM-M-45067-2024 (O & M)
Date of Decision:-27.02.2025**

Muskan

.....Petitioner.

Vs.

State of Punjab

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Lupil Gupta, Advocate,
with Mr. Rahul, Advocate,
for the petitioner.

Mr. Jatinder Pal Singh, Sr.DAG, Punjab.

JASJIT SINGH BEDI, J.(ORAL)

The prayer in this petition under Section 483 BNSS, is for the grant of regular bail in case FIR No.214 dated 23.11.2023 under Sections 21©, 25, 29 of the NDPS Act registered at Police Station Nahianwala, Bathinda.

2. The brief facts of the case are that Ajay Masih & Muskan (petitioner) came to be apprehended with 253 grams of heroin alongwith currency notes of Rs.93,000/-.

On the basis of the disclosure statement of Ajay Masih 10 grams more heroin alongwith Rs.5,30,500/- was recovered.

Ajay Masih disclosed that he used to bring heroin from Chandan @ Tullu and Akash (Jija of Muskan-petitioner). One Rajni was nominated as an accused.



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3. The learned counsel for the petitioner contends that there is a violation of the mandatory provisions of the Act regarding the search and seizure. No independent witness of recovery was joined during the course of the recovery proceedings. Since the recovery of 253 grams of heroin was marginally above the commercial quantity of 250 grams, the petitioner was a first-time offender, in custody since 23.11.2023 and none of the 14 prosecution witnesses had been examined so far, she was entitled to the grant of bail.

4. The learned counsel for the State, on the other hand, contends that the offences of this kind are on the rise and commercial quantity of contraband has been recovered from the accused because of which Section 37 of the Act would be a bar to the grant of bail. He, however, concedes that the petitioner was a first-time offender, in custody since 23.11.2023 and none of the 14 prosecution witnesses had been examined so far.

5. I have heard the learned counsel for the parties.

6. In the cases of '*Sukhchain Singh @ Manga Versus State of Punjab, CRM-M-7857-2022 decided on 04.04.2022, Pardeep Singh versus State of Punjab, CRM-M-46244-2022 decided on 19.01.2023, Hari Yadav @ Haiya versus State of Punjab (CRM-M-37645-2021)*' decided on 11.11.2022, '*Jang Kanwar Versus State of Punjab (CRM-M-53415-2021)*' decided on 19.01.2022, '*Shankar Prashad Chanau Versus The State of Punjab, CRM-M-24090-2020, decided on 27.08.2020, Gurpreet Kumar Versus State of Punjab, CRM-M-17021-2021, decided on 31.08.2021, Salim Versus State of Haryana, CRM-M-42436-2020, decided on 24.02.2021, Gagandeep Versus State of Punjab, CRM-M-3055-2021,*



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decided on 27.01.2021, Gurpreet Singh @ Gopi Versus State of Punjab, CRM-M-41039-2019, decided on 26.02.2020, Dalbara Singh Versus State of Punjab, CRM-M-47880-2022 decided on 16.01.2023', and Vivek Watts versus State of Punjab, CRM-M-13791-2022 decided on 15.02.2023, where the recovery from the accused was marginally above the commercial quantity for the respective contraband in each case, the Court granted bail to the accused therein.

7. In the present case, the alleged recovery from the petitioner is of 253 grams of heroin which is marginally above the commercial quantity of 250 grams. The petitioner is a first time offender with no other case under the NDPS Act registered against her. In this situation, the provisions of Section 37 of the NDPS Act can be relaxed to an extent and the case of the petitioner can be considered for the grant of bail, moreso, when she is in custody since 23.11.2023 but none of the 14 prosecution witnesses have been examined so far.

8. Thus, without commenting upon the merits of the case, the present petition is allowed and the petitioner, namely, Muskan is ordered to be released on bail to the satisfaction of the Trial Court/Duty Magistrate concerned.

9. The petitioner shall appear on the first Monday of every month before the police station concerned till the conclusion of the trial and furnish an affidavit each time that she is not involved in any other case except the present one.

10. In addition, the petitioner (or anyone on her behalf) shall prepare an FDR in the sum of Rs.2,00,000/- and deposit the same with the



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Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from Trial without sufficient cause.

11. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

February 27, 2025
sukhpreet

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