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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-52440-2024
Date of decision:-21.05.2025

SONU

... Petitioner

Versus

STATE OF HARYANA

... Respondent

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY.

Present:- Mr. P. Krishna Murthy, Advocate,
Mr. Vishal Singh, Advocate for the petitioner.

Mr. Vipul Sherwal, AAG, Haryana

SANJIV BERRY, J.(ORAL)

The instant second petition has been preferred by the petitioner under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, for grant of regular bail in the following case:-

FIR No.	Dated	Sections	Police Station
125	18.02.2024	18 (b) of the NDPS Act (420, 467, 468, 471, 474, 201 IPC added later on)	Camp Palwal, District Palwal

2. Arguments heard.
3. It is *inter alia* contended by learned counsel for the petitioner that the petitioner is innocent and has been falsely implicated in this case and he is in custody since 18.02.2024. He contends that as per Annexure P-2, the alleged recovery of 2.580 kg of opium was effected from the petitioner which is marginally above the non commercial quantity. He contends that petitioner is not having any criminal antecedents, and after completion of investigation, challan has already been presented in Court,



wherein prosecution has cited 35 witnesses and till date only 2 witnesses have been examined . Hence prayed for grant of regular bail to the petitioner.

4. *Per contra*, learned State counsel referring to the reply submitted by the State, has assailed these arguments by submitting that police intercepted the car driven by the petitioner alongwith co-accused Rahul sitting on the passenger seat were arrested and on search of the car, recovery of 2.580 kg of opium was recovered under the driver seat and 2.550 kg of opium was recovered under the passenger seat. He contends that the recovery from the petitioner falls within the purview of Section 37 of the NDPS Act. Hence prayed for dismissal of the bail petition. However, on query, he has not disputed the fact that as per Annexure P-2 the recovery effected from the possession of the petitioner is only 2.580 kg of opium.

5. After considering the rival contentions and perusing the record, it is observed that as per the version of the prosecution, during patrolling, police intercepted the car and petitioner driving the car alongwith co-accused Rahul sitting on the passenger seat were arrested on 18.02.2024 and on search of the car recovery of 2.580 kg of opium was recovered under the driver seat and 2.550 kg of opium was recovered under the passenger seat. Admittedly, as per Annexure P-2 the recovery effected from the petitioner is 2.580 kg of opium, which is marginally higher than the non commercial quantity. After completion of investigation, challan has already been presented in Court wherein prosecution has cited 35 witnesses and till date only 2 witnesses have been examined. The conclusion of trial to ascertain criminal liability, if any, of the petitioner, will take sufficient long time. Therefore, considering the slow pace with which the trial is proceeding, as



well as the fact that the recovered contraband allegedly effected from the petitioner is marginally higher than the non commercial quantity, this case is deemed fit where rigor of Section 37 of the NDPS Act could be diluted, as such, no purpose would be served by detaining the petitioner any longer in custody.

6. In these circumstances, without commenting on the merits of the case, the present petition is allowed. The petitioner is ordered to be released on bail subject to furnishing bail bonds/surety bonds to the satisfaction of learned Trial Court concerned, if not required in any other case; undertaking to regularly appear on each and every date; not to leave the country without prior permission of the Court; and not to tamper with evidence of prosecution in any manner.

7. It is further made clear that in case the petitioner is again found involved in any case under NDPS Act, after his release on bail, it will be open for the prosecution to move an application for cancellation of his bail in accordance with law.

8. Any observation made above shall not be construed as opinion of this Court on the merits of the case.

9. Pending application(s) if any shall also stand disposed of.

(SANJIV BERRY)
JUDGE

21.05.2025

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| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |