



CRM-M No.63892-2024 1

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRM-M No.63892-2024 (O&M)
Date of Decision: 08.01.2025

Rinku Pal

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Ankur Kaushik, Advocate for the petitioner.

Mr. Ashok Singh Chaudhry, Addl. A.G, Haryana.

MAHABIR SINGH SINDHU, J.

Present petition has been filed, under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') for grant of bail pending trial to the petitioner in FIR No.225 dated 22.07.2024, registered under Section 21(c) of Narcotic Drugs and Psychotropic Substances Act, 1985 (in short 'NDPS Act') (Section 14 of Indian Foreigner Act, 1946 and Section 12 of Passport Act, 1967 added later on), at Police Station DLF Phase 3rd Gurugram, District Gurugram.

2. Allegations are that petitioner-Rinku Pal was apprehended along with substance suspected to be MDMA weighing approximately 12 grams.

3. Contends that petitioner has been falsely implicated in the present case; mandatory provisions of Section 42 and 50 of the NDPS Act have not been complied with; final report is yet to be presented; no independent witness was present during the alleged recovery and conclusion of the trial will take sufficient long time. Lastly contends that petitioner is in custody since 22.07.2024 and he is not involved in any other criminal case.



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4. *Per contra*, learned State counsel vehemently opposed the prayer while submitting that allegations against the petitioner are serious in nature; recovery alleged is commercial in nature. Further contends that in view of the gravity of offence, petitioner does not deserve the concession of bail at this stage.

5. Heard learned counsel for the parties and perused the paper-book.

6. Before proceeding further, it is relevant to extract the provisions of Section 37 of the NDPS Act and the same read as under:-

Section 37 of the NDPS Act – Offences to be cognizable and non-bailable.—

(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974),—

(a) every offence punishable under this Act shall be cognizable;

(b) no person accused of an offence punishable for offences under section 19 or section 24 or section 27A and also for offences involving commercial quantity shall be released on bail or on his own bond unless—

(i) the Public Prosecutor has been given an opportunity to oppose the application for such release, and

(ii) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.

(2) The limitations on granting of bail specified in clause (b) of sub-section (1) are in addition to the limitations under the Code of Criminal Procedure, 1973 (2 of 1974) or any other law for the time being in force on granting of bail.”

7. Aforesaid Section, is in the nature of non-obstante clause and which, *interalia*, lays down that no person accused of an offence involving

commercial quantity shall be released on bail, unless the Court is satisfied



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that there are reasonable grounds for believing that he is not guilty of such an offence and not likely to commit any offence while on bail.

8. Both the above conditions are cumulative and not alternative. The law is well settled that requirement of satisfaction in terms of Section 37 (1)(b)(ii) (*ibid*) regarding the accused being not guilty is to be recorded on the basis of reasonable grounds and that should be more than *prima facie*.

9. The recovery alleged is commercial in nature; therefore, this Court is not inclined to record the twin test satisfaction in favour of petitioner in terms of Section 37 of the NDPS Act.

10. Consequently, there is no option, except to dismiss the petition “at this stage”.

11. Ordered accordingly.

12. The above observations be not construed as an expression of opinion on merits of the case in any manner.

Pending application(s), if any, shall also stand disposed off.

08.01.2025	(MAHABIR SINGH SINDHU)
Rajeev (rvs)	JUDGE
Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No