



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

110+236

CRM-M-5276-2024 (O&M)
Date of Decision:- 06.03.2025

JAI DEV

....Petitioner(s)

Versus

UNION OF INDIA

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJIV BERRY

Present : Mr. M.D. Khan, Advocate for the petitioner.

Mr. P.S. Hundal, Sr. Panel counsel for UOI.

SANJIV BERRY, J. (ORAL)CRM-30386-2024

For the reasons stated in the application, same is allowed. Reply on behalf of respondent-UOI filed by way of affidavit of Intelligence Officer, NCB, Zonal Unit Chandigarh is taken on record, subject to all just exceptions. Copy thereof has been supplied to learned counsel for the petitioner.

Disposed of.

CRM-M-5276-2024

The instant petition has been preferred by the petitioner under Section 439 CrPC for grant of regular bail to the petitioner in the following case :-

| Crime No. | Dated | Sections | Police Station |
|-----------|------------|--------------------------------------|----------------|
| 6 | 21.01.2021 | 8, 20, 28, 29 and 60 of the NDPS Act | NCB Chandigarh |



2. It is, *inter alia*, contended by learned counsel for the petitioner that the petitioner is innocent and has been falsely implicated in this case on the allegations that he was keeping in his possession 6.840 kg of charas. He submits that the same was not recovered from the conscious possession of the petitioner and he is in custody since 21.01.2021. He further submits that the co-accused Shaurab has already been granted the concession of bail vide order dated 18.10.2023 passed in CRM-M-45225-2021 (Annexure P-4). Hence, prays for grant of bail.

3. *Per contra*, learned counsel representing the respondent-NCB has assailed these arguments and submitted that the petitioner was found in conscious possession of such huge quantity of narcotics, which falls within the ambit of commercial quantity and attracts the rigors of Section 37 of the NDPS Act. As such, he does not deserve the concession of bail. As regards Annexure P-4, he submitted that co-accused Shaurab was apprehended on the basis of disclosure statement and no recovery was effected from him as such the case of co-accused is distinguishable from the case of the petitioner. Thus, prays for dismissal of the petition.

4. Heard learned counsel for the parties and perused the record.

5. After considering the rival contentions and perusing the record, it transpires that as per the case of prosecution a secret information was received regarding the petitioner along with co-accused actively involved in smuggling of charas, were going from Kullu to their Village in Uttar Pradesh via Kharar. Accordingly, a *naaka* was laid and the car was stopped, wherein



the petitioner and co-accused were travelling and upon search thereof, 6.840 kg of charas was recovered, which the accused were carrying without any licence. The accused were arrested and the investigation was completed and challan was presented in Court, where it is pending trial.

6. It is not disputed that the quantity of narcotics recovered from the possession of the petitioner and co-accused is much higher on the commercial side, as such, attracts of rigors of Section 37 of the NDPS Act. So far as the order granting bail to co-accused Shaurab is concerned, it transpires that he was nominated on the disclosure statement and was not named in the FIR, nor any recovery of contraband was effected from him, which is not the case of the present petitioner.

7. Therefore, in these circumstances, considering the serious nature and gravity of offence involved and the fact that commercial quantity of narcotics has been recovered from the conscious possession of the petitioner, he is not entitled to the concession of bail at this stage. Accordingly, the present petition is dismissed.

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

(SANJIV BERRY)
JUDGE

06.03.2025

S.Sharma(syr)

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