



218 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-51098-2024
Date of decision : 28.01.2025

Sunny

....Petitioner

versus

State of Haryana

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Nirmal Singh, Advocate for the petitioner.

Mr. Vijesh Sharma, Addl. A.G., Haryana and
Mr. Kirpal Singh Thakur, A.A.G., Haryana.

RAJESH BHARDWAJ, J. (Oral)

1. Present petition has been filed for grant of regular bail in case FIR No.186 dated 13.06.2024, under Sections 18 of Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station Sadar Sonipat, District Sonipat.
2. Succinctly the facts of the case are that the Police received a secret information on 13.06.2024, wherein it was informed that a boy, namely, Sunny, was standing near Ruchi Chowk Baiyapur Khurd Sonipat and he was having opium in his pocket and in case of raid is conducted he could be arrested alongwith the contraband. On receiving the information, raid was conducted at the disclosed place and the boy standing, was apprehended on the basis of the description given by the special informer. On asking he disclosed his name as Sunny. He was given an offer to be searched and on being searched 170 grams of opium kept in a polythene bag in his pocket was recovered. He failed to produce any license regarding possession of the same and hence the FIR was registered and the petitioner was arrested on spot. The investigation commenced and samples taken from the contraband were sent to FSL. On completion of



the investigation, challan was presented. The petitioner approached the Learned Additional Sessions Judge, Sonapat praying for grant of bail, however, finding no merit, the same was declined after hearing both the sides by Learned Additional Sessions Judge, Sonapat vide order dated 07.09.2024. Aggrieved by the same, the petitioner approached this Court praying for grant of bail.

3. Learned counsel for the petitioner has contended that the petitioner has been falsely implicated in the present case. He submits that the FIR is registered on the basis of secret information, however, there is gross violation of Section 42 of NDPS Act. He submits that the alleged recovery is effected from the person of the petitioner and hence there is a violation of Section 50 of NDPS Act as well. It is submitted that the alleged recovery has been effected from a public place, however, no independent witness was joined by the investigating agency. He submits that as per the statutory provisions of the NDPS Act, the recovered contraband, even otherwise, falls under the non-commercial quantity and hence, provisions under Section 37 of NDPS Act are not attracted. He further submits that the petitioner is involved in one more case under the NDPS Act, however, he is on bail in the said case. He submits that in the facts and circumstances of the case, the petitioner deserves to be granted bail.

4. Learned State counsel, on instructions from SI Azad Singh, has opposed the submissions made by the counsel for the petitioner and submits that the petitioner was arrested on due compliance of Sections 42 and 50 of the NDPS Act. He submits that contraband weighing 170 grams of opium was recovered from the person of the accused. He has submitted that the petitioner is involved in one more case under the NDPS Act. It is



submitted that the challan has been presented but charges have not been framed. He thus, submits that no case for grant of regular bail to the petitioner is made out.

5. After hearing counsel for the parties and perusing the record, it is deciphered that the alleged contraband recovered from the petitioner is 170 grams of opium which is a non-commercial quantity. The investigation already stands completed. The quantity being non-commercial in nature, provisions of Section 37 NDPS Act, are not applicable. The custody certificate shows that the petitioner is behind bars from the last 07 months and 14 days as on 26.01.2025. Though the petitioner is involved in one more case under the NDPS Act, however, he is on bail in the said case.

6. The veracity of the allegations would be assessed only after conclusion of the trial and on the appreciation of evidence to be led by both the parties before the trial Court. The trial of the case will take sufficiently long time. Thus, keeping in view the overall facts and circumstances of the case, this Court is of the opinion that learned counsel for the petitioner succeeds in making out a case for grant of regular bail to the petitioner. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

(**RAJESH BHARDWAJ**)
JUDGE

28.01.2025

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