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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-26791-2017[O&M]

Date of Decision:- November 17, 2017

Kabal Singh

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN

Present: Mr. G.S.Sidhu, Advocate,
for Mr. Gursimran Singh Madaan, Advocate,
for the petitioner.

Ms. Jaspreet Kaur, AAG, Punjab,
for the respondent State.

SHEKHER DHAWAN, J.

Present petition under Section 439 Cr. P.C., for grant of regular bail in case bearing FIR No. 29 dated 21.03.2017 registered under Sections 15 and 18 of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, "the Act"), at Police Station Koom Kalan, District Ludhiana.

2 Petitioner was allegedly found to be in possession of 60 Kg of poppy husk and 150 gms of opium.

3 Learned counsel for the petitioner contended that the alleged recovery was effected from the residential house of the petitioner on the basis of a secret information. Apart from the petitioner, other family members were also residing in the same house and the alleged recovery

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cannot be treated as recovery from the present petitioner as the same was not in his exclusive possession. In regard, reliance is placed on the judgment of Hon`ble Supreme Court in **Om Prakash alias Baba Vs. State of Rajasthan, 2009(4) R.C.R. (Criminal) 342.**

4. Contention was also raised that as per the allegations against the petitioner are that he was found to in possession of 60 Kg. of poppy husk, which is marginally above the commercial quantity. So, he be released on bail as the petitioner is in custody since 21.03.2017.

5. Learned counsel for the petitioner also contended that Parminder Singh, a co-accused in this case, has already been released on bail by this Court vide order dated 26.07.2017 passed in CRM-M-16255-2017. So the petitioner be also released on bail.

6. Learned State counsel opposed the present application on the ground that the alleged recovery was effected from the residential house of the petitioner on the basis of a secret information. The recovery was from his exclusive possession as the same was on the basis of a secret information. More so, the petitioner cannot seek parity with co-accused, Parminder Singh as nothing was recovered from him, rather Parminder Singh was granted bail on the ground that the alleged recovery was effected from present petitioner, Kabal Singh.

7. Having considered the submissions made by learned counsel for the parties and the fact that the petitioner was found to be in possession of 60 Kg. of poppy-husk and 150 gms. of opium, which is commercial quantity, the alleged recovery has been effected from the possession of the present petitioner on the basis of a secret information,

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the petitioner is not entitled for bail in this case. It shall be matter of trial only whether the petitioner was in the exclusive possession of the contraband and as such, the facts of the present case are distinguishable from the facts of **Om Prakash's case (supra)**. The case of the petitioner is quite contrary to the case of co-accused Parminder Singh, from whom no recovery of the contraband was effected, rather the recovery was effected from the present petition.

8. Resultantly, there is no merit in the present petition and the same stands dismissed.

November 17, 2017
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(SHEKHER DHAWAN)
JUDGE

Speaking/Reasoned
Reportable

Yes
No