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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-10665-2019

Date of Decision : September 25, 2019

Satnam Singh

.... Petitioner

Versus

State of Punjab

.... Respondent

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN.

Argued by Mr. Jasraj Singh, Advocate,
for the petitioner.

Mr. Ramandeep Sandhu, Sr. DAG, Punjab,
for respondent-State.

SHEKHER DHAWAN, J.

Present petition under Section 439 of the Code of Criminal Procedure is for grant of regular bail in case bearing FIR No. 104 dated 4.11.2018 under Section 22 of the Narcotic Drugs & Psychotropic Substances Act, 1985 (for short 'the Act') registered at Police Station Fatehgarh Churian, District Gurdaspur.

2. Learned counsel for the petitioner contended that the petitioner is a qualified doctor and he has been falsely implicated in this case for having possession of 12 Kgs.800 grams of intoxicant powder. More so, the petitioner is in custody since 4.11.2018 and trial of the case still to take some more time. So, the petitioner be released on bail.

3. Learned counsel has placed reliance on the judgment from

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Hon`ble Apex Court in **Varinder Kumar Vs. State of Himachal Pradesh, 2019(1) R.C.R. (Criminal) 1003**, wherein alleged recovery of contraband was effected from gunny bags carried on scooter and the independent witness had turned hostile during the trial.

4. Learned State counsel while opposing the bail application contended that the petitioner was an Ayurvedic Medical Practitioner and as such he was not authorized to have possession of such contraband. The search was conducted in the presence of Deputy Superintendent of Police and learned trial Judge has already considered these facts and charges have been framed against the petitioner for having possession of contraband which is of 'commercial quantity'. More so, as per Section 37 of the Act, the petitioner does not deserve the concession of bail. So, the present application for bail be dismissed.

5. Having considered the submissions made by learned counsel for the parties and appraisal of record of this case file and having gone through the judgment relied upon by learned counsel for the petitioner in **Varinder Kumar's case (supra)**, this Court is of the considered view that the facts of the present case are distinguishable from the facts of **Varinder Kumar's case (supra)**, because in the present case, the trial is yet to commence. The alleged recovery of contraband, which is a 'commercial quantity', was effected from the petitioner in the presence of Kirpal Singh, PPS, Deputy Superintendent of Police and as per the bar contained in Section 37 of the Act, the petitioner is not entitled to be released on bail.

6. In view of the above, there is no merit in the present petition and the same stands dismissed.

7. Any observation made herein above shall have no bearing on

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the merits of the case.

(SHEKHER DHAWAN)
JUDGE

September 25, 2019
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Whether speaking/reasoned?	:	Yes
Whether reportable?	:	Yes