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

CRM-M-21867 of 2019

Date of decision: September 24, 2019

Kehar Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Karanjit Singh, Advocate for the petitioner.

Mr. V.G. Jauhar, Senior DAG Punjab.

MAHABIR SINGH SINDHU, J (Oral)

Present third petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 (for short 'Cr. P.C.') for grant of bail pending trial to the petitioner, in FIR No.384 dated 15.12.2017, under Sections 15, 18 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'Act'), registered at Police Station Sultanpur Lodhi, District Kapurthala.

As per prosecution case, petitioner was apprehended with 105 kilogram of Poppy-Husk and 100 grams of opium.

Contends that petitioner is in custody since 15.12.2017 and as per recovery memo, *ruqa* (Exhibit PW1/A) as well as depositions of PW1 and PW4, the place of recovery of the contraband is self-contradictory and shown at two different places, i.e. one at Village Toti and another at Village Sherpur Dona; thus, the whole case of the prosecution becomes doubtful.

On the other hand, learned State counsel has opposed the bail of the petitioner and submitted that recovery is commercial in nature.

Heard both sides and perused the paper-book.

Although, this Court is not expressing any opinion on the merits of the case, but *prima facie* there is a major discrepancy regarding place of recovery, which has been shown at two places, i.e. one at Village Toti and another at Sherpur Dona. Even otherwise, petitioner is in custody since 15.12.2017 and trial is not likely to conclude in the near future.

In view of the above, this petition is allowed. Petitioner is ordered to be released on bail, in this case, on his furnishing adequate bail bonds and surety bonds to the satisfaction of learned trial Court/Duty Magistrate concerned.

The above observations may not be construed as an expression of opinion on the merits of the case.

The petitioner shall fully co-operate with learned trial Court without seeking any unnecessary adjournments.

It is clarified that in case, there is any recurrence on the part of the petitioner, State of Punjab would be at liberty to move an application for recalling of this order.

(MAHABIR SINGH SINDHU)
JUDGE

September 24, 2019
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Whether speaking/ reasoned: Yes/No

Whether Reportable: Yes/No