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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-24274-2019

Date of Decision : July 03, 2019

Arbaj Khan alias Arbaj

.... Petitioner

Versus

State of Punjab

.... Respondent

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN.

Argued by Mr. Amar Singh Sandhu, Advocate,
for the petitioner.

Mr. Amandeep 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.29 dated 10.02.2019 under Sections 21, 61 of the Narcotic Drugs & Psychotropic Substances Act, 1985 (for short 'the Act') registered at Police Station City-2 Khanna, District Ludhiana.

2. Learned counsel for the petitioner contended that the petitioner has been falsely implicated in this case. He is in custody since 10.2.2019 for having possession of 270 gms of heroin which is marginally above the prescribed standard for 'commercial quantity' as the weighment was done alongwith plastic bag and if the weight of the bag is excluded, the balance recovery will be marginally above the prescribed standard. The trial of the case is still to take some time, so the petitioner be released

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on bail. In support of his argument, learned counsel for the petitioner has placed reliance on the judgment from the Co-ordinate Bench of this Court in **Kulbir Singh and another Vs. State of Punjab, 2019 (1) Law Herald (P&H) 42.**

3. Learned State counsel opposed the bail application on the ground that the quantity of recovered contraband is 'commercial quantity' and as per provisions of Section 37 of the Act, the present petitioner is not entitled to be released on bail. So, the bail application be dismissed.

4. Having considered the submissions made by learned counsel for the parties and appraisal of record of this case file, this Court is of the considered view that the alleged recovery from the possession of the petitioner is of 'commercial quantity' and by no stretch of imagination, it cannot be considered that if the weight of the bag is excluded, the alleged recovery of the contraband would come below the prescribed standards fixed for 'commercial quantity'. More so, as per Section 37 of the Act, there is complete bar for grant of bail and the petitioner is not entitled for bail in this case.

5. Resultantly, the present petition stands dismissed.

6. Any observation made herein above shall have no bearing on the merits of the case.

(SHEKHER DHAWAN)
JUDGE

July 03, 2019
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Whether speaking/reasoned?	:	Yes
Whether reportable?	:	Yes