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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-64489-2018

Date of Decision : July 25, 2019

Dharampal Singh alias Tigu

.... Petitioner

Versus

State of Punjab

.... Respondent

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN.

Argued by Mr. H.S.Aujla, 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. 66 dated 1.8.2018 (Annexure P/1) under Sections 22, 61 of the Narcotic Drugs & Psychotropic Substances Act, 1985 (for short, "**the Act**") registered at Police Station Bhadson, District Patiala.

2. Petitioner, Dharampal Singh alias Tigu is in custody since 31.7.2018 and the allegations against him are alleged recovery of 1000 MI intoxicating liquid.

3. Learned counsel for petitioner, Dharampal Singh alias Tigu contended that as per provisions of Section 2(viia) of the Act, commercial quantity in relation to narcotic drugs means any quantity greater than the quantity specified by the Central Government by notification and as per

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entry No. 28 of the notification issued by the Central Government, possession of more than 1 Kg. of Codeine Phosphate falls in commercial quantity. More so, the petitioner is in custody since 31.7.2018 in this case and trial of this case still to take some more time and no purpose would be served by keeping the petitioner behind the bars. So, the petitioner be released on bail. Reliance has been placed upon judgment from the Coordinate Bench of this Court in **Iqbal Singh Vs. State of Punjab, 2014 (14) R.C.R. (Criminal) 745.**

4. Learned State counsel opposed the bail application on the ground that the alleged recovery of intoxicating liquid from the petitioner is of “commercial quantity” and as per provisions of Section 37 of the Act, no case is made out for release of the petitioner on bail and prayed that the present bail application be dismissed.

5. Having considered the submissions made by learned counsel for the parties and appraisal of record of this case file and the fact that the alleged recovery of intoxicating liquid is 1000 ML, this Court is of the considered view that that the said recovery does not fall in the category of commercial quantity. The term commercial quantity has been defined in Section 2(viia) of the Act, which reads as under :-

“(viia) "commercial quantity", in relation to narcotic drugs and psychotropic substances, means any quantity greater than the quantity specified by the Central Government by notification in the Official Gazette”.

6. As per entry No. 28 of the notification of Central Government bearing No. 1055(E) dated 19.10.2011, possession of more than 1 Kg of Codeine Phosphate falls in commercial quantity. Even if the version of prosecution is taken as it is, the recovery of intoxicating liquid of 1000 ML.

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does not fall within the parameters of 'commercial quantity'.

7. Taking the above facts into consideration and the fact that the petitioner is in custody since 31.7.2018 in this case and trial of this case still to take some more time, no purpose would be served by keeping the petitioner behind the bars.

8. Resultantly, the present petition stands allowed and petitioner, Dharampal Singh alias Tigu is ordered to be released on regular bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court /Chief Judicial Magistrate/Duty Magistrate concerned.

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

(SHEKHER DHAWAN)
JUDGE

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