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

CRM-M-21516-2021

Date of Decision:13.09.2021

Sanjay @ Deepu .....Petitioner

Vs.

State of Haryana ....Respondent

CORAM : HON'BLE MR.JUSTICE AMOL RATTAN SINGH

Present: Mr. Vikram Bishnoi Godara, Advocate,
for the petitioner.

Mr. Munish Sharma, AAG, Haryana.

AMOL RATTAN SINGH, J. (Oral)

Case heard by video conference.

By this petition, the petitioner seeks the concession of 'regular bail' under the provisions of Section 439 Cr.P.C., upon FIR No.76, dated 08.02.2021, having been registered at Police Station Azad Nagar, District Hisar, alleging therein the commission of an offence punishable under the provisions of Section 15-C of the NDPS Act, 1985.

On June 28, 2021, the following order had been passed by this court:-

> "Case heard via video conferencing.
>
> Learned counsel for the petitioner submits that the petitioner has been only named in a disclosure statement allegedly made in police custody by a co-accused from whom 527 kgs. and 800 grams of doda post was recovered, with him having been named only because the said person wished to lessen the burden/blame on himself, with the petitioner being known to him.
>
> He further submits that there is no other criminal case registered against the petitioner.
>
> Learned State counsel submits that though undoubtedly there is no other case registered against the petitioner as per his instructions, however he having been named by a person from whom a large quantity of contraband was recovered, he does not deserve to be admitted to bail.

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> Counsel for the petitioner seeks time to address arguments by citing judgments in his favour, even in the face of Section 37 of the NDPS Act, 1985.
>
> On his request, adjourned to 13.09.2021."

Today, learned counsel for the petitioner seeks to rely upon the following judgments:-

> i) Tofan Singh vs. State of Tamil Nadu, (Crl. Appeal No.152 of 2013 and other connected petitions, decided on 29.10.2020);
> ii) Surinder Kumar Khanna vs. Intelligence Officer directorate of Revenue Intelligence, (Crl. No.949 of 2018 decided on 3107.2018).

Though no reply has been filed on behalf of the respondent State, learned State counsel, on instructions from ASI Yoginder Singh, submits that no phone call details etc. are available connecting the petitioner to his co-accused, Rajinder, from whom 527 kgs and 800 grams of *doda post* are stated to have been recovered (as per the case of the prosecution).

That being so, in my opinion this a case in which, even in terms of sub clause (ii) of clause (b) of sub section (1) of Section 37 of the NDPS Act, 1985, the petitioner should be admitted to bail and consequently, without making any comment on the actual merits of the case at this stage, the petition is allowed with the petitioner ordered to be admitted to bail, upon him furnishing adequate bail and surety bonds to the satisfaction of the trial court.

It is also to be noticed that the petitioner has been in custody since 10.02.201, with the charges still to be framed by the trial court.

September 13, 2021 **(AMOL RATTAN SINGH)**
dharamvir **JUDGE**

Whether speaking/reasoned : YES/NO
Whether Reportable : YES/NO

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