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

**CRM-M No.11693 of 2021(O&M)
Date of Decision: 01.04.2022**

Raj Kumar Sharma

.....Petitioner

Vs

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present:Mr. PKS Phoolka, Advocate
for the petitioner.

Mr. Amit Mehta, Sr. DAG, Punjab.

RAJ MOHAN SINGH, J. (Oral)

Petitioner seeks grant of regular bail under Section 439 Cr.P.C in his fourth attempt in case bearing FIR No.072 dated 07.09.2019 registered under Sections 15 and 25 of the NDPS Act at Police Station Sadar Rampura, Bathinda, District Bathinda.

Earlier CRM-M No.7658 of 2020, CRM-M No.25225 of 2020 and CRM-M No.44222 of 2020 were got dismissed as withdrawn at the relevant time.

The present FIR was lodged with the allegations that the police party was travelling in a Government vehicle and

when the police party reached near the bridge, they found that a canter was standing on the left side of the road covered with black tarpal (tarpaulin). One person was sitting on the driver seat. On seeing the police party, he became nervous and started moving backside. ASI apprehended the person with the help of fellow companions. In the meanwhile, one Gurmit Singh came to the spot and he was associated by the police party. On being asked, the person disclosed his name as Raj Kumar Sharma. ASI disclosed his identity and told him that he has to search the vehicle under NDPS Act. Police officer told the accused about his right to be searched before the gazetted officer or Magistrate. The consent memo was prepared and thereafter, as per the consent, DSP Rampura Phul was called. During process of search, 180 kgs of poppy husk was recovered in 10 bags, each containing 18 kgs. After police proceedings, the case property was taken in police possession.

Learned counsel for the petitioner submits that the petitioner is having clean antecedents and he is not involved in any other NDPS Act. He is in custody since 10.09.2019. Learned counsel refers to **CRM-M No.20566 of 2019** titled **Veeru Vs. State of Punjab** decided on 19.11.2019, **CRM-M No.41779 of 2020** titled **Gurpeet Singh Vs. State of Punjab** decided on 17.12.2020, **CRM-M No.17481 of 2020** titled **Mani**

Singh @ Maddi Vs. State of Punjab decided on 22.07.2020 and **CRM-M No.25382 of 2020** titled **Gurbaksh Singh Vs. State of Punjab** decided on 02.09.2020 to contend that in case, the accused is not involved in other NDPS case, then the long custody itself can be considered for grant of regular bail *de hors* the nature of quantity. As of now, the petitioner has undergone incarceration of 2 years, 6 months and 21 days. As per custody certificate, there is no other NDPS case against the petitioner, except FIR No.118 dated 05.03.2013 under Sections 420, 467, 468, 471, 120-B IPC, Police Station Theog (Himachal Pradesh), in which the petitioner is on bail.

On the other hand, learned State counsel opposed the bail on the ground that the recovery is of commercial quantity. He, however, admits that no prosecution witness has been examined so far due to the situation arising out of COVID-19 Pandemic.

Be that as it may, the petitioner has undergone 2 years, 6 months and 21 days of actual custody as of now. The trial has not commenced so far. The petitioner is not involved in any other NDPS case, except under IPC, in which he is on bail.

At this stage, without forming any opinion on merits of the case, I deem it appropriate to enlarge the petitioner on regular bail subject to his furnishing adequate bail bonds and

surety bonds to the satisfaction of the trial Court/Duty Magistrate.

Nothing expressed hereinabove, would be construed to be an opinion on merits of the case.

01.04.2022
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(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No