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

**CRM-M-18761-2021 (O&M)
Date of Decision: 12.07.2022**

Jora Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Ashish Aggarwal, Advocate,
for the petitioner.

Mr. R.S. Thind, DAG, Punjab.

JASGURPREET SINGH PURI, J. (ORAL)

The present petition has been filed under Section 439 of the Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.141 dated 24.09.2020, under Sections 18, 21, 29 of the N.D.P.S. Act, 1985, registered at Police Station Khem Karan, District Tarn Taran.

Learned counsel for the petitioner has submitted that the petitioner is in custody, since 24.09.2020 and the charges in the present case were framed on 21.09.2021 and one official witness, who is a DSP has already been examined. He further submitted that as per the allegations, a secret information was received by the Police and on the basis of which they searched and found 13.230 kgs. of *Heroin* from the Indo-Pak Border and thereafter, three persons including the present petitioner were arrested on information by the Police on 24.09.2020 and on the basis of their disclosure statement further *Heroin* was also recovered. From the petitioner, there was an alleged recovery of 265 grams of *Heroin* and from the remaining two

accused also there was recovery of 190 grams of *Heroin*. He further submitted that since the recovery is stated to be on the basis of statement made by the petitioner, he is entitled for the grant of regular bail.

On the other hand, Mr. R.S. Thind, learned Deputy Advocate General, Punjab, on instructions from ASI Balwinder Singh, has submitted that it is a case where a huge recovery of *Heroin* was made from the border on the basis of secret information to the police that the petitioner and the other co-accused have kept and concealed the *Heroin* at the Indo-Pak Border. Thereafter, when the petitioner was arrested and on his statement, there was a recovery of 265 grams of *Heroin* and from the other two co-accused also there was a recovery of 190 grams of *Heroin*. He also submitted that so far as the present petitioner is concerned, the recovery was of a commercial quantity of *Heroin* and therefore, the prayer of the petitioner is hit by the bar contained under Section 37 of the N.D.P.S. Act. He further submitted that the petitioner is also a habitual offender and has been dealing with *Heroin*. He also submitted that the petitioner is involved in three more FIRs under the N.D.P.S. Act out of which in one case, he has already been convicted and sentenced for 10 years and has, therefore, vehemently opposed the grant of regular bail to the petitioner.

I have heard the learned counsel for the parties.

It is a case where on the basis of a secret information, the police had recovered 13.230 kgs. of *Heroin* from the Indo-Pak Border and as per the learned State counsel, the petitioner along with the co-accused had concealed the same at that place and when the petitioner and the co-accused were arrested and on their statement further more *Heroin* was recovered.

On the statement of the petitioner, there was a recovery of 265 grams of *Heroin*, which falls in the category of commercial quantity. The petitioner is also involved in three more cases under the N.D.P.S. Act pertaining to recovery of *Heroin* and in one of the cases, he has already been convicted and sentenced for a period of 10 years. The bail petition of the petitioner would, therefore, hit by the bar contained under Section 37 of the N.D.P.S. Act. No ground is made by the petitioner for making a departure from the bar contained under Section 37 of the N.D.P.S. Act, therefore, without commenting anything on the merits of the case, this Court does not deem it fit and proper to grant regular bail to the petitioner, consequently, the present petition is devoid of any merit and the same is hereby dismissed.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is only meant for the purpose of decision of present petition.

12.07.2022**(JASGURPREET SINGH PURI)***Bhumika***JUDGE**

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| 1. Whether speaking/reasoned: | Yes |
| 2. Whether reportable: | Yes/No |