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

CRM-M-23050-2022

Date of decision : 28.09.2022

Surinder Singh @ Mohni

....Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Raghav Goyal Chandiwal, Advocate
for the petitioner.

Mr. Arun Gupta, Asstt. Advocate General, Punjab
for the respondent-State assisted by
ASI Gurmeet Singh.

PANKAJ JAIN, J. (ORAL)

This petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No.25 dated 28th of February, 2022 registered for the offence punishable under Section 15 (B) of the NDPS Act, 1985 (for short, 'the Act'), at Police Station Kabarwala, District Sri Muktsar Sahib.

2. Custody Certificate of the petitioner has been filed on behalf of the State, today in Court. The same is taken on record.

3. Ld. Counsel for the petitioner contends that petitioner has been falsely implicated in the present case. Recovery alleged to have been effected is 20 Kg. of poppy-husk and by making it a case of chance recovery statutory violations are being camouflaged. He further submits that the Challan already stands presented and there can't be any apprehension that the petitioner shall tamper with the evidence. Keeping in view the recovery alleged to have been effected rigors as enumerated under Section 37 of the Act will not be attracted.

4. Ld. State Counsel does not dispute the fact that the recovery would be intermediate and is of non-commercial quantity however he submits that there are three more cases against the petitioner. Nevertheless, he does not dispute the fact that in two of the cases the petitioner is on bail and in the third case the petitioner was awarded fine of Rs.2,000/- only.

5. Faced with the situation Ld. Counsel for the petitioner relies upon **Prabhakar Tewari vs. State of U.P. and another, 2020 (11) SCC 648** and **Maulana Mohd. Amri Rashadi vs. State of U.P., 2012(2) SCC 382** to contend that while considering the bail, allegations *qua* other cases should not be considered.

6. I have heard Ld. Counsel for the parties and have gone through the records of the case.

7. Admittedly, the recovery does not attract rigors as enumerated under Section 37 of the Act. Petitioner has already suffered incarceration for about 7 months. Challan already stands presented.

8. Thus, in view of cumulative effect of aforesaid facts and circumstances, the present petition is allowed. The petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.

9. Needless to say that anything observed herein shall not be construed to be an opinion on the merits of the case.

September 28, 2022
Dpr

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No