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

CRM-M-28422-2022 (O&M)

Date of decision:12.07.2022

AZAD

...Petitioner

Versus

U.T. CHANDIGARH

...Respondent

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present: Mr. N.S. Lucky, Advocate
for the petitioner.

Mr. Deepinder Brar, A.P.P. U.T. Chandigarh.

SURESHWAR THAKUR, J. (ORAL)

1. The instant petition has been filed under Section 439 of Cr.P.C., wherethrough the present bail petitioner seeks indulgence of regular bail being accorded to him.
2. FIR No.0069 of 02.05.2022, constitutes therein an offence under Section 18 of NDPS Act, and, is lodged at Police Station Mani Majra, District Chandigarh, thereins the commission of the incriminatory offence is attributed to the bail petitioner.
3. The learned counsel appearing for the U.T. Chandigarh, on instructions, given to him by ASI Pardeep Kumar submits, that opium weighing 1 kg 5 grams became recovered, at the crime site, from the alleged conscious, and, exclusive possession of the present bail petitioner. The weight of the above seizure makes it fall within the ambit of non-commercial quantity thereof, and, obviously hence, the rigors of Section 37 of the NDPS Act are not applicable

thereons, and, the bail petitioner becomes entitled to his being admitted to regular bail

4. The learned State counsel submits, that the indulgence of regular bail may not be accorded to the present bail petitioner, as he is a habitual offender, and, in case he becomes admitted to regular bail, thereupon, there is every likelihood of his fleeing from justice, and, tampering with prosecution evidence, and, also his influencing prosecution witnesses, besides his re-indulging in criminal activities.

5. Be that as it may, the imposition of stringent conditions, is rather deemed fit and appropriate, for being imposed upon the petitioner-bail applicant, necessarily as a measure to allay, the apprehension (supra), as becomes reared by the learned State counsel.

6. Consequently, it is not necessary to prolong the judicial incarceration of the bail petitioner-applicant. The instant petition is allowed, and, the bail petitioner-applicant is ordered to be released from judicial custody. However, the granting of bail to the bail petitioner-applicant, is subject to his furnishing personal, and, surety bonds in the sum of ₹50,000/- each, before the learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned, and, also subject to his not tampering with prosecution evidence, and, his not influencing prosecution witnesses, and, besides also his appearing before the trial Court concerned, as and when directed to make his personal appearance unless validly exempted. Further, subject to the petitioner-bail applicant making an undertaking before the learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned, that in case, he re-indulges in criminal activities, whereupon, on breach thereof, the order made today, shall become *ipso facto* annulled, and, upon his being forthwith arrested by the investigating officer

concerned, the latter shall produce the petitioner-bail applicant before the trial Court concerned, for the latter making an order for his being put to judicial custody.

7. Copy dasti.

12.07.2022

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(SURESHWAR THAKUR)
JUDGE

Whether speaking/reasoned:-	Yes/No
Whether reportable:	Yes/No