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

CRM-M-48870-2021

Date of Decision: 31.05.2022

Surjit Singh @ Bau

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Gagandeep Singh Simble, Advocate
for the petitioner.

Mr. Kirat Singh Sidhu, DAG, Punjab

JASJIT SINGH BEDI, J.(Oral)

The petitioner seeks the grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.235 dated 30.06.2021 registered under Sections 21-C, 29 of NDPS Act, 1985 at Police Station Islamabad, District Amritsar.

2. The brief facts of the case are that while the police party was present at Adda Fatehpur, they saw two clean shaven persons coming on a three wheeler black colour bearing No.PB02-CR-7048 from the side of Amritsar, who got perplexed by seeing a police party and tried to turn the three wheeler around but were apprehended. The driver of the three wheeler disclosed his name as Surinder Singh @ Sonu son of Nirmal Singh and the person who was sitting on the seat near to the driver seat

told his name as Jatinder Singh @ Shatru @ Shakka son of Sukhdev Singh @ Sukha. A search was conducted and 05 grams of heroin was found recovered from each of the accused. They got recorded their disclosure statements stating that they had purchased the same from the present petitioner-Surjit Singh. On the basis of the said disclosure statement, the petitioner was nominated as an accused. On his arrest, a recovery of 260 grams of heroin was effected from him.

3. The learned counsel for the petitioner submits that the petitioner is not named in the FIR but named in the disclosure statement of his co-accused. A recovery has been foisted upon the petitioner and in fact he has been picked up from his house and implicated in the present case. He further contends that taking the prosecution case to be true, the recovery of 260 grams of heroin is marginally above, the commercial quantity and that fact would entitle the petitioner to the grant of bail. He further submits that the petitioner has been in custody since 01.07.2021 and is a first time offender and therefore, prays for the grant of regular bail.

4. On the other hand, learned State counsel submits that offences of this kind are on the rise and 260 grams of heroin is commercial quantity and therefore, the petitioner is not entitled to the grant of bail.

5. I have heard the rival contentions of both the parties.

6. Admittedly, the petitioner has been in custody since 01.07.2021 and only 02 out of the 15 prosecution witnesses have been examined so far. Even otherwise, this Court has granted the concession of bail in cases involved recoveries marginally above the commercial quantity.

In the case of Gurpreet Singh Versus State of Punjab, CRM-M-45214-2021 decided on 23.03.2022, the accused was granted the concession of bail, where the recovery effected was of 255 grams of heroin.

In the case of Gursewak Singh @ Sebi Versus State of Punjab, CRM-M-34803-2021 decided on 21.04.2022, the accused was granted the concession of bail, where the recovery of 273.4 grams of Tramadol Hydrochloride was marginally above the commercial quantity of 250 grams.

Similarly, in the case of Sukhchain Singh @ Manga Versus State of Punjab, CRM-M-7857-2022, decided on 04.04.2022, this Court granted bail to the accused, wherein the recoveries of 265 grams of heroin as against the commercial quantity of 250 grams.

7. In view of the aforementioned judgments, it would be a matter of adjudication during the course of trial as to whether the recovery was actually of commercial or non-commercial quantity. However, given the fact that the petitioner has been in custody since

01.07.2021 and the quantity of recovery being a border line case, the further incarceration of the petitioner is not warranted.

8. In view of above, without adverting to the merits of the case, I deem it appropriate to enlarge the petitioner on regular bail. Accordingly, the present petition is allowed. The petitioner is ordered to be released on bail, subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of the trial Court/concerned Duty Magistrate, concerned.

9. The petitioner shall appear before the police station concerned on the first Monday of every month and shall furnish an affidavit each time that he has not been involved in any other crime other than the present one during the time he was on bail.

(JASJIT SINGH BEDI)
JUDGE

31.05.2022

JITESH

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