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

CRM-M-52194-2022

Date of decision : 18.11.2022

Swaran Singh @ Shambu

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Kamal Narula, Advocate for the petitioner.

Mr. Tarun Aggarwal, Sr. DAG, Punjab.

VIKAS BAHL, J. (ORAL)

This is the first petition under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR No.112 dated 07.07.2022, registered under Section 21/61/85 of the Narcotic Drugs & Psychotropic Substances Act (Sections 353, 332, 186, 224, 225, 148 and 149 IPC have been added later on), at Police Station City Jalalabad, District Fazilka.

Learned counsel for the petitioner has submitted that the petitioner is 48 years old and has been falsely implicated in the present case and has been in custody since 01.10.2022 and the investigation is complete and the challan has been presented and there are 20 prosecution witnesses, out of whom none have been examined, thus, the trial is likely to take time. It is further submitted that the petitioner is not involved in any other case

and the alleged recovery effected is not from the present petitioner but is from the co-accused Mahinder Kaur and the said recovery is of 10 grams of heroin, which is far lesser than the commercial quantity as the stipulated commercial quantity for heroin starts from 250 grams. It is further contended that the said Mahinder Kaur has been granted the concession of regular bail by this Court vide order dated 29.10.2022 passed in CRM-M-38545-2022.

Learned State counsel, on the other hand, has opposed the present petition for regular bail to the petitioner and has submitted that in pursuance of raid, Mahinder Kaur was arrested and recovery of 10 grams of heroin was effected from her and the present petitioner and other accused were also found to be involved in other cases.

This Court has heard learned counsel for the parties and has perused the record.

The petitioner is 48 years old and has been in custody since 01.10.2022 and the investigation is complete and the challan has been presented and out of 20 prosecution witnesses, none have been examined as yet, thus, the trial is likely to take time. The petitioner is stated to be not involved in any other case and no recovery has been effected from the present petitioner and recovery from the co-accused Mahinder Kaur is of 10 grams of heroin, which would fall under the category of non-commercial quantity as the stipulated commercial quantity for heroin starts from 250 grams and thus, the bar under Section 37 of the NDPS Act would not apply. The said Mahinder Kaur has been granted the concession of regular bail vide order dated 29.10.2022 passed in CRM-M-38545-2022.

Keeping in view the above-said facts and circumstances, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail / surety bonds to the satisfaction of the concerned trial Court/ Duty Magistrate, subject to him not being required in any other case.

However, it is made clear that in case, any act is done by the petitioner to threaten or influence the complainant or any of the witnesses, then it would be open to the State to move an application for cancellation of bail granted to the petitioner.

Nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

18.11.2022

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No