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

**CRM-M-26278-2023 (O&M)**

**Date of decision: 12.09.2023**

Sunil

...Petitioner

Versus

State of Punjab

...Respondent

**CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL**

Present: Mr. Mohit Garg, Advocate  
for the petitioner.

Mr. Amit Rana, Sr. DAG, Punjab.

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**MANJARI NEHRU KAUL, J.**

1. Prayer in this petition is for grant of regular bail to the petitioner in case FIR No.175 dated 27.12.2022 under Section 18/61 of NDPS Act, 1985 registered at Police Station Sujanpur, District Pathankot.

2. Learned counsel for the petitioner submits that the alleged recovery effected from the petitioner was just 10 grams of opium which is classified as small quantity under the Act. He submits that since investigation is complete, his further incarceration would not serve any useful purpose as now he is in custody for almost more than eight months having been arrested on 27.12.2022. It has also been submitted that the petitioner has clean antecedents as he is not involved in any other criminal case muchless under the NDPS Act. It has also been further submitted that the petitioner was allegedly nabbed by the police pursuance to a secret information received along with co-accused Rakesh from whom recovery of

3 Kg 10 grams of opium was effected, however, recovery effected from co-

accused could not be linked with the petitioner by clubbing the same. In support has placed reliance upon the judgment passed by this Court in CRM-M-33043-2021 titled Tarsem Singh @ Shambhu Vs. State of Punjab, decided on 13.10.2021.

3. Per contra, learned State counsel while opposing the prayer and submissions made by learned counsel opposite, on instructions, has drawn the attention of this Court to the FIR which has been annexed as AnnexureP-1. Learned State counsel has submitted that a specific secret information had been received qua both the petitioner as well as the co-accused that they both were in the business of the sale of opium and while standing at a particular place they were waiting of prospective buyers. Not only this, a specific secret information had been received that the petitioner had kept a small sample of opium in his pocket and after satisfying the prospective buyers about the quality of the contraband in their possession, they were then selling it to them.

4. Learned State counsel has submitted that since both the petitioner and the co-accused were closely related and were travelling together, mere recovery of some opium from the pocket of the petitioner would not place him at a better pedestal than the co-accused. In support, learned State counsel has placed reliance upon the judgment rendered by Hon'ble Supreme Court in Union of India through NCB Lucknow Vs. Md. Nawaz Khan, 2021 SCC On Line 1237 to urge that accused cannot be absolved from the contours of Section 37 because the recovery effected was from co-accused.

5. I have heard learned counsel for the parties and perused the material available on record.

6. *Prima facie* it clearly comes across that both the petitioner as well as the co-accused, who were travelling together along with the contraband were in conscious possession of the recovered contraband. In addition, a specific secret information too had been received qua their involvement.

7. In the facts and circumstances as enumerated here-in-above, this Court does not deem it fit to extend the concession of bail to the petitioner. The charges have not been framed after the challan was presented on 16.06.2023.

8. Dismissed. However, it is made clear that anything observed here-in-above shall not be construed to be an expression of opinion on the merits of the case.

12.09.2023

*Satyawan*

(MANJARI NEHRU KAUL)  
JUDGE

***Whether speaking/reasoned: Yes/No***  
***Whether Reportable: Yes/No***