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

**CRM-M-44789-2022
Date of Decision: 04.09.2023**

Gurdial Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. J.S. Ghuman, Advocate,
for the petitioner

Mr. Sarabjit Singh Cheema, DAG, Punjab.

JASGURPREET SINGH PURI, J. (ORAL)

1. The present petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case bearing FIR No.104 dated 15.07.2022, under Section 15(C) of the NDPS Act, registered at Police Station Nakodar Sadar, District Jalandhar Rural.

2. Learned counsel for the petitioner submitted that the petitioner is in custody for 1 year and 1 month and the charges in the present case have not been framed till date. He further submitted that the petitioner is not involved in any other case and he has been falsely implicated in the present case since he was only sitting next to the co-accused, namely, Jagtar Singh @ Tari and there had been an alleged recovery of 52 kgs. of *Poppy Husk* from the car. He also submitted that the petitioner was not aware of the contraband which was recovered from the car and therefore, he may be

considered for the grant of regular bail.

3. On the other hand, Mr. Sarabjit Singh Cheema, learned DAG, Punjab has filed an affidavit of DSP, Sub Division Nakodar, District Jalandhar Rural in Court today and while referring to the same, he submitted that it is a case where although the petitioner is not involved in any other case but while referring to Para No.6 of the affidavit, he submitted that after the arrest of the petitioner and the aforesaid co-accused, namely, Jagtar Singh @ Tari even Dope Test was conducted qua them and both of them were found positive in that test. He further submitted that it is a case where a syndicate is being operated and while referring to the affidavit, he submitted that the co-accused, namely, Jagtar Singh @ Tari is a habitual offender and is involved in number of cases under the NDPS Act and he used to purchase *Poppy Husk* from Bilal Ahmad Bhatt and about a week ago, he purchased 2 quintals of *Poppy Husk* from the aforesaid co-accused, namely, Bilal Ahmad Bhatt and he had sold 20-20 kgs. of *Poppy Husk* to Rajpal and many other persons and some of the *Poppy Husk*, which was consisting of 52 kgs. was sold to the present petitioner. He further submitted that the aforesaid quantity of 52 kgs. of *Poppy Husk* falls in the category commercial quantity under the NDPS Act and therefore, the prayer of the petitioner is hit by the bar contained under Section 37 of the NDPS Act and even otherwise also, the charges are yet to be framed and has, therefore, vehemently, opposed the grant of regular bail to the petitioner.

4. I have heard the learned counsels for the parties.

5. The petitioner is in custody for 1 year and 1 month. Although the petitioner is stated to be not involved in any other case but as per the

affidavit filed by the State and submissions made by the learned State counsel, after the arrest of the petitioner and the co-accused, Jagtar Singh @ Tari, they were found to be positive in the Dope Test. The confiscated quantity in the present case was 52 kgs. of *Poppy Husk* which falls in the category of commercial quantity and no ground has been made out by the learned counsel for the petitioner for making a departure from the bar contained under Section 37 of the NDPS Act. Therefore, this Court does not deem it fit and proper to grant bail to the petitioner.

6. Consequently, finding no merit in the present petition and the same is, hereby, dismissed.

7. However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is only meant for the purpose of decision of present petition.

04.09.2023*Bhumika***(JASGURPREET SINGH PURI)**
JUDGE

1. Whether speaking/reasoned:	Yes/No
2. Whether reportable:	Yes/No