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

CRM-M-46274-2022 (O&M)

Date of Decision: 17.02.2023

**Sanjay @ Khali**

....Petitioner(s)

Versus

**State of Haryana**

.....Respondent(s)

**CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI**

Present: Mr. R.S. Mamli, Advocate and  
Ms. Pooja Arora, Advocate (*Amicus Curiae*),  
for the petitioner.

Ms. Nidhi Garg, AAG, Haryana.

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**JASGURPREET SINGH PURI, J. (Oral)**

The present is a second petition filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in FIR No. 0282 dated 20.06.2021, under Sections 21(b)/61/85 of NDPS Act, registered at Police Station City Fatehabad, District Fatehabad.

Mr. R.S. Mamli, Advocate and Ms. Pooja Arora, Advocate (*Amicus Curiae*) for the petitioner have submitted that although this is successive bail petition which has been filed by the petitioner and earlier bail petition was dismissed on 24.03.2022 because of the fact that earlier the petitioner was granted bail in view of the judgment of this Court in

***Inderjeet Singh @ Laddi and others Versus State of Punjab, 2014(3) RCR (Criminal) 953*** since at that time FSL report was not received but the

petitioner on the receipt of the FSL report did not surrender before the police in time and that was the reason as to why earlier bail petition was dismissed. They submitted that in fact even as per aforesaid order dated 24.03.2022, learned State counsel had stated that learned counsel for the petitioner was informed with regard to the receipt of FSL report but in fact the petitioner was never informed with regard to receipt of FSL report by his counsel and that was the *bona fide* reason as to why he did not surrender in time because he was not aware of receipt of the FSL report. They submitted that be that as it may, now the petitioner has already faced incarceration for 9 months and 15 days and the total alleged recovery from the petitioner was only 10.10 grams of Heroin and the challan in the present case was presented on 17.08.2021 and till date charges have not been framed and therefore, the petitioner may be considered for the grant of regular bail.

On the other hand, Ms. Nidhi Garg, learned AAG, Haryana has submitted that it is correct that the petitioner has faced incarceration for 9 months and 15 days and charges have not been framed till date, although challan was presented on 17.08.2021. She has however submitted that the petitioner is involved in six more cases out of which one pertains to NDPS Act and in one case, he has already been acquitted and in remaining five cases, he is an under trial. She has also submitted that there is also apprehension that in case the petitioner is released on bail, then he may abscond again.

I have heard the learned counsel for the parties.

The petitioner has faced incarceration for 9 months and 15 days. Challan was presented on 17.08.2021 but till date charges have not

been framed. A perusal of the earlier order by which the bail petition was dismissed would show that learned counsel for the State had stated before this Court that learned counsel for the petitioner was duly informed with regard to receipt of the FSL report. However, today learned counsel for the petitioner has submitted that the learned counsel of the petitioner never informed the petitioner with regard to receipt of the FSL report and he therefore in a *bona fide* manner could not surrender before the police authorities because he was not aware as to whether FSL report was received or not. Be that as it may, now the petitioner has already faced incarceration for 9 months and 15 days and the alleged recovery is only 10.10 grams of Heroin and therefore, this Court is of the view that the successive bail petition would be maintainable. The pendency of the other FIRs against the petitioner would not become a bar for grant of regular bail to the petitioner.

Apart from the above, objection raised by the learned State counsel that earlier the petitioner did not surrender before the police authorities after the FSL report was received by the police and there is apprehension that he may not appear before the Court after getting bail is not based upon any material fact but it is only an argument which has been raised by learned State counsel. Unless there is any material to show that there is any reasonable apprehension, the same cannot become a ground for denial of bail to the petitioner. The aforesaid recovered quantity also does not fall in the category of commercial quantity under the NDPS Act.

In view of the aforesaid facts and circumstances, this Court deems it fit and proper to grant regular bail to the petitioner.

Consequently, the present petition is allowed. The petitioner

shall be released on regular bail subject to furnishing bail bonds/surety to the satisfaction of the learned trial Court/Duty Magistrate concerned.

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

17.02.2023

rakesh

Whether speaking  
Whether reportable

(JASGURPREET SINGH PURI)  
JUDGE

: Yes/No  
: Yes/No