

of 9 Kg. 500 gms. of Poppy Husk in this case has been made from the three other co-accused namely Subhash, Chander Pal and Sanjay who were apprehended by the police on the spot. He submits that the alleged recovery does not fall within the purview of commercial quantity and also refers to another case registered against the petitioner and submits that he was arrested on the basis of disclosure statement and no recovery of any contraband was effected in that case and the petitioner is already on bail in that case, as such he prayed for grant of concession of bail.

3. Learned State counsel has opposed the bail application by arguing that the petitioner is already involved in one case under NDPS Act, but at the same time he had not disputed the fact that he is on bail in that case. He has also placed on record custody certificate dated 28.11.2023 and submits that petitioner is in custody for morethan 2 months.

4. After considering the rival contentions and perusing the record, it transpires that as per the allegations police had recovered 9 kg. 500 gms. of Poppy Husk from the co-accused Subhash, Chander Pal and Sanjay and on disclosure statement made by them present petitioner was arrested on 22.09.2023 and since then he is in custody and no recovery has been effected from him. So far as the earlier case of NDPS Act registered against the petitioner is concerned, it is submitted by learned counsel for the petitioner that in that case no recovery was effected and petitioner was implicated on the basis of disclosure statement and he is on bail. The recovery effected in the present case does not fall within the purview of commercial quantity. The conclusion of trial will take sufficient long time to ascertain criminal

liability if any of the petitioner and considering the quantity of the contraband, I find no purpose would be served by detaining the petitioner any longer.

5. Consequently, without commenting on the merits of the case, it is observed that no purpose would be served in keeping petitioner behind bars. Therefore, the present petition is allowed. The petitioner is ordered to be released on bail subject to furnishing bail bonds/surety bonds to the satisfaction of learned Trial Court concerned, if not required in any other case; undertaking to regularly appear on each and every date; not to leave the country without prior permission of the Court; and not to tamper with evidence of prosecution in any manner.

6. It is further made clear that in case the petitioner is found involved in any case under NDPS Act, after his release on bail, it will be open for the prosecution to move an application for cancellation of his bail in accordance with law.

7. Any observation made above shall not be construed as opinion of this Court on the merits of the case.

(SANJIV BERRY)
JUDGE

29.11.2023

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i)	Whether speaking/reasoned?	Yes/No
ii)	Whether reportable?	Yes/No