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

CRM-M-4915-2024 (O&M)

Date of decision: 09.05.2024

Manpreet Singh Mand @ Manni

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Sumit Dua, Advocate for the petitioner.

Mr. Kuljit Singh, Addl. A.G. Punjab.

KARAMJIT SINGH, J. (ORAL)**CRM-16878-2024**

1. The present application is allowed and copies of interim order dated 10.08.2021 (Annexure P-4) and final order (Annexure P-5) passed by the Court of 3rd Additional Sessions Judge, Sri Nagar are taken on record.

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1. Prayer in the present petition under Section 439 of Code of Criminal Procedure is for grant of regular bail to the petitioner in case FIR No.82 dated 21.07.2023 registered for the offences punishable under Sections 15, 61 and 85 of Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station Division No.1, District Jalandhar.

2. As per the allegations appearing in the FIR, on 21.07.2023 police apprehended Owais Ahmad along with Swift car bearing No. JK 01 AN 6372, petitioner Manpreet Singh along with Maruti car No.PB 10 V



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0502 and another co-accused Farakat Ahmed along with Truck No. JK 01 AT 1026. That on search of the Swift car, 40.325 Kg of poppy husk stored in two bags was recovered and with regard to said recovery separate recovery memo was prepared. In the similar manner, search of Maruti car was effected which resulted into recovery of 50.186 Kg of poppy husk contained in three bags and with regard to said recovery effected from petitioner Manpreet Singh separate recovery memo was prepared. In the same manner, on search of Truck No. JK 01 AT 1026, 140.72 Kg of poppy husk contained in seven bags was recovered regarding which separate recovery memo was prepared in the name of co-accused Farakat Ahmed. All the aforesaid accused were arrested at the spot and on completion of investigation, challan stands presented and charges are also framed.

3. Counsel for the petitioner submits that the petitioner has been falsely implicated in the present case and is in custody for the last more than 9 months and is already granted bail vide orders Annexures P-4 and P-5 in one another case faced by him under NDPS Act. That on completion of investigation, challan stands presented and charges are framed but it will take time for trial to conclude. Counsel for the petitioner further submits that it was not a composite recovery as separate recovery memos were prepared and as per the recovery memo relating to present petitioner 50.186 Kg of poppy husk was recovered from Maruti car of the petitioner and separate recovery memos were prepared regarding recoveries effected from co-accused Owais Ahmad and Farakat Ahmed. It is further submitted that the aforesaid recovery of 50.186 Kg of poppy husk would fall under marginal above the commercial quantity but if the weight of 3 bags is



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deducted, it will fall under non-commercial quantity and thus stringent provisions of Section 37 are not applicable to the same. That co-accused Owais Ahmad from whom non commercial quantity of poppy husk was recovered, is already given concession of bail vide order dated 05.04.2024 in CRM-M-5701-2024. So, prayer is made that petitioner be released on regular bail during pendency of the trial.

4. Present petition is resisted by State counsel, who submits that recovery of 50.186 kg of poppy husk effected from the car of the petitioner, comes under commercial quantity and thus rigors of Section 37 of NDPS Act are applicable to the aforesaid contraband. It is further submitted that the petitioner is also involved in one another case of NDPS Act. It is further contended that the trial is at its initial stage and in the given circumstances, there is no ground made out for grant of bail to the petitioner. However, the State counsel on instructions from ASI Naseeb Chand has not disputed the fact that petitioner is in custody for the last more than 9 months and that trial has commenced but till date no prosecution witness is examined.

5. I have considered the submissions made by the counsel for the parties.

6. It is a matter of evidence as to whether all three recoveries are to be clubbed together or are separate as has been done by the trial Court while framing the charges. Even from the perusal of the police record which is produced today, it is apparent that separate recovery memos were prepared by the Investigating Officer at the time of effecting aforesaid recoveries and as per the recovery memo relating to present petitioner only 50.185 Kg of poppy husk contained in 3 bags appears to have been

recovered from the car of the petitioner at the spot. As per counsel for the petitioner, in case weight of plastic bags in which the alleged contraband was being carried is deducted, the alleged contraband recovered from maruti car of the petitioner would fall under non commercial quantity or marginal above the commercial quantity. The petitioner is in custody for the last more than 9 months and is already released on bail in one another case registered against him under NDPS Act. Co-accused Owais Ahmad from whom non commercial quantity of contraband was recovered is already enlarged on bail. Conclusion of trial may take a long time. So, no useful purpose would be served by detaining the petitioner for any longer period.

7. For the foregoing reasons, without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on regular bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

09.05.2024
Yogesh

(KARAMJIT SINGH)
JUDGE

Whether speaking/reasoned:-	Yes/No
Whether reportable:-	Yes/No