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

**CRM-M-7716-2024 (O&M)
Date of decision : 03.09.2024**

Jaspal Singh**...Petitioner**

Versus

State of Punjab**...Respondent****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. Himmat Singh Deol, Advocate
for the petitioner.

Mr. A. S. Samra, AAG, Punjab.

MANISHA BATRA, J. (Oral)

1. Prayer in these petition, filed under Section 439 Cr.P.C., is for grant of regular bail to the petitioner in case arising out of FIR No. 28 dated 01.09.2023, registered under Sections 21, 25, 27-A, 29 of the NDPS Act, 1985 at Police Station State Special Operation Cell, Police District Intelligence Wing (CID), District Amritsar.

2. Brief facts of the case relevant for the disposal of the present petition are that on 01.09.2023, on receipt of a secret information, co-accused Gurbinder Singh @ Bhinda, Narinder Singh and Ranjodh Singh @ Jodha were apprehended by a police party and recovery of 15 kgs. of heroin was effected from them. They were formally arrested at the spot. During the course of investigation, co-accused Gurbinder Singh recorded his

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disclosure statement to the effect that he was in contact with Pakistani smuggler Kashi, who had told him that a party had been sent by him, who would receive the consignment of 7.5 kgs. of heroin from him and it would be sent by one Harwinder Singh and he might take remaining consignment of heroin on 02.09.2023 from the parking area of Golden Temple, Amritsar, where Ram Singh, Rajdeep Singh, petitioner Jaspal Singh and Rajwinder Kaur would be receiving the contraband from him. Pursuant to aforesaid disclosure, the petitioner, Rajdeep Singh, Rajwinder Kaur and Ram Singh were nominated as accused in this case and were apprehended by the police on 02.09.2023. Their personal search as well as the search of the car was conducted and apart from mobile phones, drug money of Rs. 7 Lakhs was recovered from the dash board of the car. During the course of investigation, co-accused Rajdeep Singh was found to be innocent. After completion of necessary investigation and usual formalities, *challan* under Section 173 of Cr.P.C. was presented in the Court and presently, the petitioners along with co-accused are facing trial for commission of aforesaid offences. The petitioner had moved application before the trial Court for grant of regular bail but the same had been dismissed, vide order dated 30.11.2023.

3. Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in this case. He has been involved in this case on the basis of the disclosure statement suffered by aforesaid co-accused Gurbinder Singh. The petitioner was not named in the secret information. No recovery of any incriminating material has been effected from him. In fact, the petitioner had sold his Fortuner car to one Jarmanjit Singh for Rs. 8.5

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Lakhs and had received an amount of Rs. 7.5 Lakhs and an amount of Rs. 1 Lakh was to be paid later on. The police has shown the said amount of money as drug money in this case. Learned counsel for the petitioner has placed on record copies of recovery memos dated 02.09.2023 as Annexures P-3 to P-5 to submit that in recovery memo (Annexure P-4), it is recorded that no incriminating substance was found in the car bearing registration number PB-01D-0835, which was alleged to be the car of the petitioner. However, vide recovery memo (Annexure P-5), which was recorded on the same day i.e. 02.09.2023, it was recorded that drug money of Rs.7 Lakhs was recovered from the said car. It is argued that the contradiction in the recovery memos establishes the fact that the petitioner has been falsely implicated in this case. Investigation has since been completed and *challan* has been filed. The trial is likely to take a long time. No useful purpose would be served by keeping him in custody anymore. It is, therefore, urged that the petition deserves to be allowed.

4. *Per contra*, learned State counsel, on the basis of the status report, has vehemently opposed the prayer of the petitioner for grant of regular bail by submitting that although the petitioner has been nominated in this case on the basis of the disclosure statement suffered by the co-accused Gurbinder Singh, however, during the course of investigation, the complicity of the petitioner has been *prima facie* established in this case. When the petitioner along with co-accused Rajwinder Kaur, Ram Singh and Rajdeep Singh were apprehended on 02.09.2023, drug money of Rs. 7 Lakhs was recovered from the dash board of their car. A huge recovery of the

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contraband has been effected in this case, which obviously falls under the commercial quantity. Hence, the rigors of Section 37 of the NDPS Act would be attracted in this case. The allegations against the petitioner are serious and specific in nature. The trial is going at a proper pace. There are chances of the petitioner's indulging in similar offences, if extended benefit of bail. It is, thus, argued that the petitions are liable to be dismissed.

5. I have learned counsel for the parties at considerable length and have also perused the material placed on record.

6. As per the allegations, the petitioner has been nominated in this case on the basis of the disclosure statement suffered by aforesaid co-accused Gurbinder Singh, from whom, recovery of 15 kgs. of heroin was effected. The petitioner and three other co-accused were apprehended on 02.09.2023 from the parking area of Sri Darbar Sahib, Amritsar, where they were found standing under suspicious circumstances. On interrogating them and on demarcation of petitioner Jaspal Singh, an amount of Rs. 7 Lakhs kept in the dash board of the car, which was lying parked therein, was recovered. The said drug money was to be given against the receipt of consignment of 7.5 kgs. of heroin. A perusal of the status report reveals that a thorough investigation has been conducted in the matter and the complicity of the petitioner has been *prima facie* established in commission of subject offences. Since the quantity of recovered contraband falls under the commercial quantity, the rigors of Section 37 of the NDPS Act would certainly be attracted against the petitioners. There are serious allegations against the petitioner that he is a part of a smuggling gang along with co-

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accused and is involved in drug smuggling, which includes cross border smuggling. The apprehension expressed by learned State counsel that the petitioner may involved in similar offences, if extended benefit of bail, cannot be stated to be unfounded. There is nothing on record to show that there would be any undue delay in conclusion of trial. So far as the argument of learned counsel for the petitioner with regard to contradictions in the recovery memos is concerned, the disputed questions of fact can be decided only by the trial Court after thorough assessment and evaluation of the evidence produced on record before it and not by this Court at this stage while deciding a bail petition filed under Section 439 of Cr.P.C. However, still a cursory look on the submissions of learned counsel for the petitioner shows that on the one hand, he is claiming that the money so recovered was in fact received by the petitioner after selling his car and it was not the drug money at all and on the other hand, by placing on record the aforesaid recovery memos, he is laying a claim that at first instance, when recovery memo (Annexure P-4) was recorded, no such recovery was shown to have been effected from the said car. However, on the same day, while recording another recovery memo (Annexure P-5), the false recovery of drug money of Rs. 7 Lakhs has been shown to have been effected. These claims are themselves contradictory. Keeping in view the severity of allegations levelled against the petitioner, the quantity of recovered contraband in this case, the quantum of sentence which the conviction may entail and the attendant facts and circumstances of the case, I am of the considered opinion that the petitioner does not deserve to be granted benefit of regular bail, at

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this stage. Hence, the petition is dismissed.

7. It is made clear that the observations made hereinabove are only for the purpose of deciding the present petitions and the same shall not be construed as an expression of opinion on the merits of the case.

03.09.2024
Waseem Ansari

(MANISHA BATRA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>