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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CRM-M-14550-2024****Date of Decision: 02.04.2024**

Jograj Singh alias Jugraj Singh

...Petitioner

vs.

State of Punjab

...Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat**Present : Mr. Balbir Singh Jaswal, Advocate, for the petitioner.****Mr.M.S.Bajwa, Deputy Advocate General, Punjab.**

N.S.Shekhawat J. (Oral)

1. The petitioner has filed the instant petition under Section 439 of the Cr.P.C. with a prayer to grant regular bail in case FIR No.105 dated 13.11.2018 registered under Section 22 of NDPS Act, 1985, at Police Station Mehta, Amritsar.

2. Learned counsel for the petitioner contends that the petitioner was allegedly found to be carrying 45 intoxicating tablets; however, the quantity of contraband, allegedly recovered from the present petitioner, was non-commercial in nature. He further contends that the petitioner was ordered to be released on bail on 21.12.2018 (Annexure P-2), but, he absented during trial on 10.05.2022 and was declared to be proclaimed offender on 09.02.2023. The petitioner was arrested in the present case again, on 15.11.2023 and is in custody since then. Learned counsel further contends that the present petitioner shall file an undertaking before the trial Court that he shall appear on each and every date of hearing and shall not remain absent during the trial, without prior permission of the Court. Just to show his bonafides, learned counsel for the

petitioner has offered to furnish two heavy sureties before the trial Court and submits that any reasonable conditions may be imposed on him, while granting him concession of bail.

3. On the other hand, learned State counsel has vehemently opposed the submissions made by learned counsel for the petitioner on the ground that one more case under the provisions of NDPS Act has been registered against the present petitioner, but he admits that the petitioner is on bail in the said case.

4. I have heard the learned counsel for the parties and perused the record.

5 In the present case, the petitioner was admitted to bail on 21.12.2018 (Annexure P-2), passed by the Special Court, Amritsar. Thereafter, the petitioner was regularly appearing, however, he absented on 10.05.2022 and was declared as a proclaimed offender. In the present case, no doubt, the petitioner was declared to be a proclaimed offender, but the quantity of contraband recovered from the present petitioner was non-commercial in nature and he cannot be ordered to be confined in jail indefinitely as an under trial prisoner. The petitioner is in custody since 15.11.2023 and no purpose will be served by keeping him behind bars.

6. Consequently, the present petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Chief Judicial Magistrate, concerned, subject to the following conditions:-

(i) The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him to disclose such facts to the Court or to any other authority.

- (ii) The petitioner shall remain present before the Court on the dates fixed for hearing of the case.
- (iii) The petitioner shall not absent himself from the Court proceedings except on the prior permission of the Court concerned.
- (iv) The petitioner shall surrender his passport, if any, (if already not surrendered), and in case he is not holder of the same, he shall swear an affidavit to that effect.
- (v) The petitioner shall also file his affidavit before the concerned Court, mentioning his ordinary place of residence and number of mobile phone, which shall be used by him during the pendency of the trial. In case of change of place of residence/mobile number, he shall share the details with the concerned Court/learned Trial Court.
- (vi) In case, the petitioner involves in any other criminal activity, during the pendency of the trial, it shall be viewed seriously.
- (vii) The concerned Court may insist on two heavy local sureties and may also impose any other condition, in accordance with law, while accepting the bails bonds and surety bonds of the petitioner.
- (viii) The petitioner shall report every 1st Monday in English calander month to the concerned SHO till the conclusion of the trial and SHO shall mark his presence by making an entry in the rojnamcha. In case, he does not report on every 1st Monday to the concerned SHO, it shall be viewed seriously and the concession granted to him shall be liable to be cancelled and the State of Punjab shall be at liberty to move an appropriate application in this regard.
- (ix) The petitioner shall also file an affidavit before the trial Court that he shall appear on each and every date of hearing and shall not remain absent during trial, without prior permission of the Court.

02.04.2024.
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(N.S.SHEKHAWAT)
JUDGE

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