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

CRM-M-27692-2023

Date of decision: 20.03.2024

Jasdeep Singh Alias Jass

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Yashpal Thakur, Advocate for the petitioner.

Mr. J.S. Dhaliwal, AAG, Punjab.

KARAMJIT SINGH, J. (ORAL)

1. The present petition has been filed by the petitioner under Section 439 Cr.P.C. for grant of regular bail in case having FIR No.134 dated 08.10.2022, under Sections 18-C/61/85 of NDPS Act, Police Station Khamanon, District Fatehgarh Sahib, Punjab.
2. The allegations in nutshell are that police recovered 2 kg 600 grams of opium from possession of the petitioner on 08.10.2022. The petitioner was arrested at the spot.
3. The counsel for the petitioner submits that petitioner is falsely implicated in the present case and is incarcerated for last more than 1 year and 5 months and is having no criminal history and that the trial is not progressing ahead and the alleged recovery is just marginally above the commercial quantity as per provisions of NDPS Act. The counsel for the petitioner further submits that petitioner be given benefit of regular bail. In

support of his contentions, the counsel for the petitioner has placed reliance upon decision dated 04.05.2023 of the Hon'ble Supreme Court in Special Leave of Appeal (Crl.) No.3221 of 2023 titled Hasanujjaman and others Vs. State of West Bengal, wherein a case of recovery of commercial quantity of contraband, the accused was granted bail on the ground that he was in custody for more than 1 year and 4 months and having no criminal antecedents.

4. The present petition is resisted by the State counsel who submits that in the present case, commercial quantity of opium was recovered and stringent provisions of Section 37 NDPS Act are applicable. It is further submitted that the trial is going on. The State counsel on instructions from ASI Daljit Singh has not disputed that petitioner is in custody for the last more than 1 year and 5 months and is having no criminal history.

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

6. As per prosecution version, 2 kg 600 grams of opium was recovered from possession of petitioner and the said contraband comes under commercial quantity, as per provisions of NDPS Act.

7. As per the custody certificate furnished by the State counsel, the petitioner is in custody for last more than 1 year and 5 months and is not involved in any other criminal case. Admittedly, till date, prosecution is able to examine one witness out of total eleven witnesses and it will take time for the trial to conclude. There is nothing on the record to show that the petitioner is responsible for delay in trial. In the given circumstances, the

effect of Section 37 of NDPS Act will be diluted. Thus, no gainful purpose will be served by prolonging the judicial custody of petitioner.

8. In light of the above, without expressing 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 of bail bonds and surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

20.03.2024
Yogesh

(KARAMJIT SINGH)
JUDGE

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