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

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**CRM-M-33207-2024 (O&M)
Date of decision: 05.09.2024**

Gurjit Singh @ Kalu**...Petitioner**

Versus

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

Present:- Mr. Gobind Singh Randhawa, Advocate
for the petitioner.

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

MANISHA BATRA, J. (Oral)

1. Prayer in this petition, filed under Section 439 Cr.P.C., is for grant of regular bail to the petitioner in FIR No. 015 dated 08.03.2024, registered under Section 21-C of the NDPS Act, 1985 at Police Station Behrampur, District Gurdaspur.

2. Brief facts of the case relevant for the disposal of the present petition are that on 08.03.2024, an information was received by the BSF from village Chakramsai that some villagers had heard humming of a flying object near the border and had noticed movement of two unknown persons. In pursuance of said information, a search was conducted and one packet was found, which was containing 470 grams of heroin. The FIR was formally registered and investigation proceedings were initiated. During the course of investigation, the petitioner and co-accused Satnam Singh @ Aman, who were in custody in connection with FIR No. 11 dated

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09.03.2024, registered under Section 21-C of the NDPS Act and Section 25 of the Arms Act at Police Station Dorangla, which also pertained to recovery of heroin brought from Pakistan through drone, confessed that the contraband recovered in the present case was also procured by them from Pakistan through drone. Consequently, the petitioner and aforesaid co-accused were taken into custody in this case as well on 15.04.2024, on the basis of the production warrant. The petitioner had moved an application for grant of regular bail before the Court of learned Judge, Special Court, Gurdaspur but the same had been dismissed, vide order dated 03.06.2024.

3. Learned counsel for the petitioner has argued that he has been falsely implicated in this case. The petitioner, who was already in custody in case arising out of aforesaid FIR No. 11, has been nominated in this case as an accused on the basis of his own disclosure, which is not admissible in evidence. The recovery of alleged contraband was effected from the fields of Gurpreet Singh. The petitioner was not arrested at the spot. He has been made scapegoat to save the skin of the real culprits. He is in custody since 15.04.2024. The trial is likely to take time. No useful purpose would be served by keeping him in custody anymore. Therefore, it is urged that the petition deserves to be allowed and the petitioner deserves to be granted benefit of regular bail.

4. *Per contra*, learned State counsel, on the basis of the status report, has vehemently argued that the petitioner is not entitled to get benefit of bail as a commercial quantity of the contraband was recovered in this case. Hence, the rigors of Section 37 of the NDPS Act would be attracted in this case. The petitioner is involved in one more case under the NDPS Act

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and during the course of investigation, he has admitted his guilt. There are serious allegations against the petitioner that he was involved in cross border smuggling of drugs and ammunitions through drone. The petitioner may involve in similar offences again, if extended benefit of bail. Hence, it is urged that the petition is liable to be dismissed.

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

6. As per the allegations, on receipt of an information by the BSF, recovery of 470 grams of heroin was effected from the fields of a farmer, situated in a border area village. The contraband was allegedly supplied and dropped there from a drone, which was controlled from Pakistan. The petitioner, who was in custody in case arising out of aforesaid FIR No. 11, which had been registered with regard to recovery of drug and ammunition brought from Pakistan through some drone, had confessed his involvement in the present case. The allegations against the petitioner are quite serious as he is involved in cross border smuggling of drugs. More so, since the quantity of the contraband recovered in this case falls under the commercial quantity and the petitioner is involved in one more case under the NDPS Act, the rigors of Section 37 of the NDPS Act would certainly be attracted in this case. The apprehension of learned State counsel that if extended benefit of bail, the petitioner may indulge in similar offences again cannot be stated to be unfounded keeping in view his criminal antecedents. Therefore, keeping in view the gravity of allegations as levelled against the petitioner, his criminal antecedents, the quantity of alleged contraband recovered in this case, the quantum of sentence which the conviction may entail and the

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attendant facts and circumstances of the case, this Court is of the considered opinion that he does not deserve to be granted concession of regular bail, at this stage. Accordingly, the present petition is dismissed.

7. It is made clear that any observation made herein above is only for the purpose of deciding the present petition and the same shall have no bearing on the merits of the case.

05.09.2024
Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No