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

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CRM-M-39811-2024 (O&M)
Date of decision: 01.10.2024

Amritpal Singh @ Landa **...Petitioner**

Versus

State of Punjab **...Respondent**

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Ajayinder Singh Dhillon, Advocate
for the petitioner.

Mr. Amandeep Singh, DAG, Punjab.

MANISHA BATRA, J. (Oral)

1. This petition has been filed by the petitioner under Section 483 of BNSS, 2023 seeking regular bail in case bearing FIR No. 26 dated 23.03.2024, registered under Sections 15 and 29 of the NDPS Act, 1985 at Police Station Bhadaur, District Barnala.
2. Brief facts of the case relevant for the purpose of disposal of this petition are that on 23.03.2024, on the basis of a secret information, a police party headed by ASI Jaswinder Kumar had apprehended co-accused Dharam Singh, Arashdeep Singh @ Aarshu, Harpreet Singh @ Hariya and Harmandar Singh along with a car bearing registration number PB-29-X-28888. Upon search of the aforesaid co-accused, recovery of 100 kgs. of poppy husk was effected from them in a sequence. During the course of investigation, disclosure statement of co-accused Harpreet Singh was recorded, wherein he disclosed that out of 60 kgs. of poppy husk recovered from his car, he was to supply 40 kgs. of poppy husk to the petitioner. On the basis of this disclosure,

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the petitioner was nominated in this case as an accused and was arrested on 30.03.2024. After completion of necessary investigation and usual formalities, *challan* under Section 173 of Cr.P.C. was presented in the Court and presently, the petitioner is facing trial for commission of aforesaid mentioned offence. He had moved an application before the trial Court for grant of regular bail but the same had been dismissed, vide order dated 04.06.2024.

3. Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in this case. He has been nominated in this case on the basis of the disclosure statement made by the co-accused, which is not admissible in law. No recovery has been effected from him. He is not involved in any other case under the NDPS Act. The petitioner has no connection with the aforesaid co-accused. He is in judicial custody since 30.03.2024. Investigation has since been completed and *challan* has been presented. Conclusion of trial is likely to take 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. Status report has been filed by the respondent-State. It is submitted therein and learned State counsel has argued that although the petitioner has been nominated in this case on the basis of the disclosure statement made by the aforesaid co-accused but during the course of investigation, his complicity in the subject offence has been established. Co-accused Harpreet Singh was to supply 40 kgs. of poppy husk to the petitioner. The petitioner used to buy poppy husk from co-accused @ Rs. 2500/- per kg. The quantity of the contraband recovered in this case falls under the

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commercial quantity. Hence, the rigors of Section 37 of the NDPS Act would be attracted in this case. The trial is going on at a proper pace. 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 gone through the record carefully.

6. The petitioner has been nominated in this case on the disclosure statement made by aforesaid co-accused Harpreet Singh, from whose car, 60 kgs. of poppy husk was recovered. He had disclosed that out of 60 kgs. of poppy husk, he was to supply 40 kgs. of poppy husk to the petitioner. The petitioner was arrested on 30.03.2024. However, no subsequent recovery of contraband was effected from him. Since as disclosure statement of aforesaid co-accused Harpreet Singh, only 40 kgs. of poppy husk, which is non-commercial quantity, was to be supplied to the petitioner, it will be a debatable question as to whether the rigors of Section 37 of the NDPS Act can be invoked qua the petitioner or not ? As per status report, the petitioner is not involved in any other case under the NDPS Act. He is in judicial custody for the last more than 06 months. Conclusion of trial is likely to take time. Therefore, keeping in view the aforesaid facts and circumstances of the case, this Court is of the considered opinion that no useful purpose would be served by keeping the petitioner in custody anymore. Accordingly, the present petition is allowed. The petitioner is ordered to be released on regular bail, subject to his furnishing personal/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

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7. However, it will be open for the prosecution to apply for cancellation of bail in case the petitioner is found involved in any other subsequent case under the NDPS Act.
8. 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.

01.10.2024
Waseem Ansari

(MANISHA BATRA)
JUDGE

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