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

CRM-M-45150-2024

Date of decision : 28.11.2024

Shiva

.....Petitioner

versus

State of U.T. Chandigarh

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. Amit Bhanot, Advocate
for the petitioner.

Mr. Sumit Jain, Addl. P.P., U.T. Chandigarh.

RAJESH BHARDWAJ, J. (Oral)

1. Present petition has been filed by the petitioner under Section 439 Cr.P.C. praying for grant of regular bail in case FIR No.70 dated 26.05.2024, under Section 20 of the Narcotic Drugs and Psychotropic Substances Act, 1985 registered at Police Station Sector-11, Chandigarh.
2. Succinctly the facts of the case are that the police party while on patrolling on 26.05.2024, spotted a person coming with a bag in his hand. On suspicion he was stopped, however, he tried to throw the bag. He was over powered by the police party and on asking, he disclosed his name as Shiva @ Sheru (petitioner). The bag being carried by him was searched and on his search, 990 grams *ganja* was recovered from him. The accused failed to produce any licence for keeping the contraband and the FIR was registered and he was arrested on spot. The samples were taken from the contraband recovered and send to the FSL. On completion of investigation, challan was presented. Thereafter, the petitioner



approached the Learned Judge, Special Court, Chandigarh for grant of bail, however, after hearing both the sides, the same was declined by the Learned Judge, Special Court, Chandigarh vide order dated 18.07.2024. Aggrieved by the same, the petitioner is before this Court by way of filing the present petition.

3. It has been vehemently contended by counsel for the petitioner that petitioner has been falsely implicated in the present case. He submits that the alleged recovery was effected in a public place, however, no independent witness was joined by the police. He submits that there is a gross violation of provisions of Section 50 of the NDPS Act in this case. He submits that even otherwise, the alleged recovery falls under the non-commercial category and thus, provision of Section 37 of NDPS Act, are not attracted. He submits that the petitioner is being prosecuted in similar other cases as well, however, he is on bail in those cases. He submits that investigation is already complete. He submits that in the overall facts and circumstances of the present case, petitioner deserves to be granted regular bail.

4. Per contra, learned State counsel has opposed the submissions made by counsel for the petitioner and on instructions from ASI Surender Singh, has submitted that the petitioner is a habitual offender, who is being prosecuted in 11 other cases of similar nature. He submits that in the present case, the investigation is already complete and challan has been presented. He thus, submits that no case for grant of regular bail to the petitioner is made out.

5. Heard. On hearing counsel for the parties and perusing the record, it is apparent that as per the case of the prosecution the petitioner was arrested on 26.05.2024, and the recovery of 990 grams of *ganja* was



made from the petitioner. Needless to say that the recovery from the petitioner falls under the non-commercial category. Though the petitioner is prosecuted in 11 other cases, however, every case would rest on its own merits. Even otherwise, the petitioner is stated to be on bail in other cases. The present quantity falls under the non-commercial quantity and investigation is complete.

6. The veracity of the allegations would be assessed only after the conclusion of the trial and on the appreciation of evidence to be led by both the parties before the trial Court. The trial of the case will take sufficiently long time. Thus, keeping in view the overall facts and circumstances of the case, this Court is of the opinion that learned counsel for the petitioner succeeds in making out a case for grant of regular bail. Accordingly, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail/surety bonds to the satisfaction of the concerned Court/Duty Magistrate. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

28.11.2024

(RAJESH BHARDWAJ)
JUDGE

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