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

CRM-M-57668-2023

Date of Decision: 25.04.2024

Joban Singh

...Petitioner

VS.

State of Punjab

...Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present : Mr. Parivartan Singh, Advocate and
Mr. Rajiv Kumar Saini, Advocate
for the petitioner.

Mr. Deepender Singh, Additional 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.183 dated 06.09.2023 registered under Sections 21(b)/25/29/61/85 of NDPS Act, 1985 (Section 27-A added later on), at Police Station Chheharta, District Amritsar.

2. As per case of the prosecution, the petitioner and his co-accused Gulwinder Singh @ Rinku were arrested by the police and 155 grams of heroin was recovered from his co-accused. Learned counsel for the petitioner contends that no contraband was recovered from the present petitioner and during the course of investigation, a sum of Rs.4.40 lakhs was recovered from the present petitioner. He further contends that the police could not collect any evidence to show that the said amount was earned out of the sale of any narcotic substance and the said money has been wrongly termed as 'drug money'. Learned counsel further contends that even the recovery of contraband in the present

case is non-commercial in nature and the provisions of Section 37 of the NDPS Act would not apply to the facts of the present case. The petitioner was arrested in the present case on 06.09.2023 and after completion of the investigation, challan has already been presented before the Court.

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 NDPS Act has been registered against the present petitioner and he does not deserve the concession of bail by this Court.

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

5. As per story projected by the prosecution, the petitioner was riding the motorcycle with his co-accused Gulwinder Singh and the recovery of 155 grams of heroin was effected from both of them. The said recovery is non-commercial in nature. Still further, even though one more case has been registered against the present petitioner, but the petitioner is on bail in the said case.

6. Without commenting on the merits of the case, 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.

25.04.2024.
hemlata

(N.S.SHEKHAWAT)
JUDGE

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