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

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CRM-M-58062-2023 (O&M)

Date of decision: 30.08.2024

Angrej Singh**...Petitioner****Versus****State of Punjab****...Respondent****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. G. P. S. Ghuman, Advocate
for the petitioner.

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

MANISHA BATRA, J. (Oral)

1. This petition has been filed by the petitioner under Section 439 Cr.P.C. seeking regular bail in case bearing FIR No. 50 dated 12.04.2023, registered under Sections 18, 25 and 29 of the NDPS Act, 1985 at Police Station Chattiwind, District Amritsar.

2. Brief facts of the case relevant for the purpose of disposal of the present petition are that the aforementioned FIR was registered on the allegations that on the intervening night of 11/12.04.2023, a police party headed by ASI Harjinder Singh was present at bridge of the rivulet at Bus Stop Duburzi in connection with crime detection and patrolling duty, when a secret information was received that the petitioner, who was originally hailing from village Punia, District Tarn Taran and at that time was residing at Hussan Tour and Travels situated at Grant Estate Colony, Amritsar, was indulged in the business of smuggling of opium since long. This business was carried on by him in an Innova car bearing registration number

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HR-51-AJ-1920. It was further informed that on that day, he was coming from Delhi while carrying huge quantity of opium in his car and was going to supply the same in Tarn Taran and village Bhagtupura, District Amritsar. It was further informed that if a raid was conducted, he could be apprehended at the bridge of rivulet in village Bhagtupura. Believing the secret information to be true, a raiding party was immediately formed. *Ruqa* was prepared and sent to the police station. ASI Harjinder Singh rushed towards the spot. Information was also given to DSP Iqbal Singh. As per further allegations, DSP Iqbal Singh also reached at the informed place and about 11:30 PM. At about 12 AM, the Innova car was seen coming on the road from the side of village Pandori side. The police party gave a signal to the driver to stop the vehicle but instead of stopping the same, he fled towards village Duburji. The car was chased and signals were again given to stop the vehicle but the driver then turned the car towards left and entered in the area of Grand Estate Colony, Sultanwind. However, he was apprehended. On interrogation, he disclosed his name and particulars. On completion of formalities, search of the petitioner and the car bearing registration number HR-51-AJ-1920 was conducted and a black coloured kit, which was lying beneath the driver's seat, was recovered. On checking, opium was recovered from the same. On weighing, it was found to be 08 kgs. 500 grams. Samples were drawn as well as the remainders were taken into custody. The petitioner was formally arrested. Some mobile phones were also recovered from him. During the course of investigation, co-accused Varinder Singh and Amarjeet Singh were also arrested. They were booked under Section 29 of the NDPS Act.

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Investigation has since been completed and the petitioner is facing trial before the trial Court for commission of subject offence. He had moved an application for grant of regular bail before the trial Court, which was dismissed, vide order dated 29.08.2023.

3. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. In fact, on 12.04.2023, his vehicle, bearing registration number HR-51-AJ-1920, was lying parked during entire day outside his house and office of Hussan Tour & Travels and it had not been recovered from the area as alleged by the police. Rather, it was recovered from outside the premises of Hussan Tour & Travels at about 08:45 PM and even he was picked up by the police from there. A false recovery has been planted upon him. The fact of his vehicle lying parked at the aforesaid place has been established from GPS record, which has been preserved by the concerned company, who maintains such record, on moving an application by him before the trial Court. While referring to Annexures A-1 to A-2, which are copies of the GPS tracker record as issued by the Lovekush Enterprises, who had installed a GPS tracker in the vehicle of the petitioner on 30.09.2021, it is stressed that sufficient material is available to show that no recovery of contraband has been effected from him and his vehicle was not apprehended from the spot as alleged by the police. The petitioner has placed on record some photographs to show that he was present in the office of Hussan Tour & Travels on 12.04.2023 at about 08:45 PM and Annexure A-2 (*Colly.*), GPS record, showing that his vehicle was taken from the area of New Kot Mit Singh, Amritsar at about 08:30 AM on 12.04.2023. It is further submitted that

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the investigation stands completed. Trial is likely to take time. The petitioner does not have any criminal antecedents. He is in custody since 12.04.2023. His further detention would not serve any useful purpose. Therefore, it is urged that the petition deserves to be allowed. To fortify his argument, learned counsel for the petitioner has relied upon order dated 04.05.2023 passed by Hon'ble Supreme Court in *Hasanujjaman and others vs. State of West Bengal* : Special Leave to Appeal (Cri.) No. 3221 of 2023, decided on 04.05.2023 as well as order dated 25.04.2024 passed by a coordinate Bench of this Court in *Gurpreet Singh vs. State of Punjab*, CRM-M-51663-2022, whereby the accused have been granted concession of regular bail in the cases where commercial quantity of the contraband was allegedly recovered while considering the period of their incarceration.

5. Status report has been filed by the respondent-State, as per which, there were serious allegations against the petitioner. There are chances of his absconding and involving in similar offences, if extended benefit of bail. Therefore, it is argued that the petition is liable to be dismissed.

6. I have heard learned counsel for the parties at considerable and have also gone through the record carefully.

7. As per the allegations, 08 kgs. 500 grams of opium was recovered from a vehicle admittedly owned by the petitioner as on the night of 12.04.2023 from the area of village Bhagtupura. Though it is claimed by the petitioner that his vehicle was lying parked outside his house and office of Hussan Tour & Travels throughout the fateful day and in fact had been recovered from there and not from village Bhagtupura and has placed on

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record some GPS tracker record and photographs to prove so, however, the authenticity of these documents has to be established during trial on the basis of the evidence to be produced before the trial Court. The quantity of alleged contraband recovered in this case admittedly falls under the commercial quantity. Hence, the rigors of Section 37 of the NDPS Act would be attracted in this case. The apprehension expressed by learned State counsel that the petitioner, if extended benefit of bail, may indulge in similar offences cannot be stated to be unfounded at this stage. So far as the aforesaid orders as relied upon by the petitioner are concerned, it is well settled proposition of law that the orders of bail are not necessarily orders of any precedent value. Reliance in this regard can be placed upon ***Gajanand Agarwal vs. State of Orrisa and others : 2006(4) R.C.R.(Criminal) 311***. Therefore, keeping in view the gravity of allegations as levelled against the petitioner, the quantity of alleged contraband recovered in this case, the quantum of sentence which the conviction may entail and the 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.

30.08.2024

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No