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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-1174-2024
Date of decision: 18.01.2024

Jaswinder Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Liaqat Ali, Advocate for the petitioner.

Mr. G.S. Sidhu, AAG, Punjab.

KARAMJIT SINGH, J. (ORAL)

1. This is a second petition filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No.63 dated 11.05.2023, under Section 15, 29, 61, 85 of NDPS Act at Police Station Garhshankar, District Hoshiarpur.
2. As per allegations appearing on the record, at the time of occurrence, the petitioner was driving Verna car bearing number HR01AE-2600 and on its checking, 2 bags each having 25 kgs of poppy husk were recovered from the said car by the police officials and at that time, the police has also checked on another Swift car bearing number PB-65L-1991 driven by co-accused Manvinder Singh from which the police recovered 3 bags each containing 25 kgs of poppy husk. There are also allegations that one Jitender Kumar who was sitting with the petitioner in Swift car managed to escape from the spot. The aforesaid recovery was effected on 11.05.2023 and since then, the petitioner is in custody.
3. Counsel for the petitioner inter alia submits that the petitioner is falsely implicated in the present case and further, as per the prosecution story, only 50 kgs of poppy husk is recovered from the car driven by the petitioner and the same comes under the non commercial quantity as per

provision of Section 2 (viia) of NDPS Act. Counsel for the petitioner further submits that at present, the petitioner is not facing trial in any other criminal case under the NDPS Act and all the other pending cases are already finished.

4. The present petition is resisted by learned State counsel who submits that no doubt, in the present case, non commercial quantity of contraband was recovered from the petitioner who was driving Swift car. However, the petitioner is having criminal history and is involved in number of other cases. However, the State counsel has not disputed the fact that after completion of investigation challan has been presented but the trial is at its initial stage.

5. In light of the fact that non commercial quantity of poppy husk was recovered from possession of the petitioner, as per the allegations appearing on the record and it is apparent that rigors of Section 37 of NDPS Act are not applicable to the facts of the present case of the petitioner who is in custody since 11.05.2023 and the trial is at its initial stage. In the given circumstances, even if the petitioner is facing trial in another criminal cases under NDPS Act, that is no impediment for grant of regular bail to the petitioner in the present case.

6. In light of the above, without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on regular bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/CJM/Duty Magistrate concerned.

18.01.2024

Yogesh

**(KARAMJIT SINGH)
JUDGE**

**Whether speaking/reasoned:-
Whether reportable:-**

**Yes/No
Yes/No**