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

CRM-M-8171-2025

Date of decision : 18.02.2025

Krishan Singh @ Kalu

....Petitioner

versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present :- Mr. P.K.S. Phoolka, Advocate
for the petitioner.

Mr. J.S. Arora, D.A.G., Punjab.

RAJESH BHARDWAJ, J. (Oral)

1. Present petition has been filed for grant of regular bail in case FIR No.206 dated 07.12.2024, under Sections 21(b), 27, 29, 61, 85 of Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Sadar Bathinda, District Bathinda.

2. As per the facts and circumstances of the case, SI Police Station Sadar Bathinda received an information that ASI Major Singh along with the police party had nabbed one young person along with the intoxicant substance. On receiving the information, the police reached at the spot. The arrested young person was asked his name and address, who disclosed his name to be Krishan Singh @ Kallu. He was carrying transparent coloured bag. He was given an offer for search of the same. On conducting the search 35 grams of heroin (Chita) was recovered from the same. He failed to produce any license regarding possession of the same and hence the FIR was registered and the petitioner was arrested on the spot. The investigation commenced and samples taken from the contraband were sent to FSL. On completion of the investigation, challan



was presented. The petitioner approached the Learned Judge, Special Court, Bathinda praying for grant of bail, however, finding no merit, the same was declined after hearing both the sides by Learned Judge, Special Court, Bathinda vide order dated 24.01.2025. Aggrieved by the same, the petitioner approached this Court praying for grant of bail.

3. Learned counsel for the petitioner has vehemently contended that the petitioner has been falsely implicated in the present case. It is submitted that the alleged recovery has been effected from a public place, however, no independent witness was joined by the investigating agency. He submits that there is a violation of Section 50 of NDPS Act in the present case. He submits that even otherwise, the alleged recovery effected from the petitioner is 35 grams of heroin, which falls under the non-commercial quantity and hence, provisions under Section 37 of NDPS Act are not attracted in the present case. He further submits that the petitioner has been falsely implicated in 08 other cases also and hence, he has been roped in the present case as well, however, he is on bail in all those cases. He submits that the investigation is complete and charges are also farmed and thus, in the facts and circumstances of the case, the petitioner deserves to be granted bail.

4. Per contra, learned State counsel, on instructions from ASI Sukhjant Singh, has opposed the submissions made by the counsel for the petitioner and submits that the petitioner was arrested along with the contraband. He submits that on due compliance of Sections 50 of the NDPS Act, the search was conducted and 35 grams of heroin was recovered from the conscious possession of the petitioner. He has submitted that the petitioner is a habitual offender as he is involved in 08 more cases. He has produced the custody certificate of the petitioner. It is



submitted that out of 12 prosecution witnesses, 01 has been given up, however, no one has been examined as on date.

5. After hearing counsel for the parties and perusing the record, it is deciphered that the petitioner was arrested on 07.12.2024 and 35 grams of heroin was allegedly recovered from the person of the petitioner. There is no gain-saying that the alleged recovery effected from the petitioner is of non-commercial quantity and thus, provisions of Section 37 NDPS Act, are not attracted. The investigation is already complete and the charges are framed, however, out of total 11 prosecution witnesses, none has been examined as on date. The custody certificate shows that the petitioner has undergone incarceration of 02 months and 07 days and in rest of the cases, he is on bail.

6. The veracity of the allegations would be assessed only after 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 to the petitioner. 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 trial Court/Duty Magistrate. Nothing said herein shall be treated as an expression of opinion on the merits of the case.

18.02.2025

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(**RAJESH BHARDWAJ**)
JUDGE

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