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

CRM-M-19925-2023

Date of decision:-04.02.2025

KAMAL JASWAL

... Petitioner

Versus

STATE OF PUNJAB

... Respondent

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY.

Present:- Mr. Dhrunder Chopra, Advocate for the petitioner.

Mr. Ankit Grewal, DAG, Punjab.

SANJIV BERRY, J. (ORAL)

The instant petition has been preferred by the petitioner under Section 439 of the Code of Criminal Procedure for grant of regular bail in the following case(Annexure P-1):-

FIR No.	Dated	Sections	Police Station
160	17.10.2022	18(b) of the NDPS Act	Kabarwala, District Sri Muktsar Sahib

2. It is *inter alia* contended by learned counsel for the petitioner that the petitioner is innocent and has been falsely implicated in the present case and the alleged recovery has been planted. He contends that petitioner is in custody since 17.10.2022, challan has already been presented in Court and conclusion thereof will take sufficient long time. Hence prayed for grant of regular bail to the petitioner.

4. *Per contra*, learned State counsel referring to the reply



submitted by the State has opposed the bail petition by arguing that petitioner was apprehended at the spot and recovery of 4 kgs 400 grams of opium has been effected from him. The recovered contraband falls within the purview of commercial quantity and attracts Section 37 of the NDPS Act, as such, the petitioner is not entitled to concession of bail. Hence prayed for dismissal of bail petition.

5. After considering the rival contentions and perusing the record, it transpires that on 17.10.2022 during checking one young person was seen coming, holding a brown coloured bag in his hand, on suspicion, police apprehended him and he disclosed his name as Kamal Jaswal the present petitioner and on checking 4 kgs 400 gram of opium was recovered from his conscious possession. The recovery of contraband effected from the conscious possession of the petitioner falls within the purview of 'commercial quantity' and attracts bar under Section 37 of the NDPS Act. Therefore, considering the nature and gravity of the offence, and also the fact that the recovered contraband falls within the purview of 'commercial quantity', attracting the bar under Section 37 of the NDPS Act, no case is made out in favour of the petitioner for grant of regular bail at this stage, as a consequence, the petition is hereby dismissed.

6. Any observation made above shall not be construed as opinion of this Court on the merits of the case.

(SANJIV BERRY)
JUDGE

04.02.2025

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i)	Whether speaking/reasoned?	Yes/No
ii)	Whether reportable?	Yes/No