

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(210)

CRM No. M-16219-2021

Date of Decision : 22.04.2021

Amritpal Singh

....Petitioner

Versus

State of Punjab

.....Respondent

(through video conferencing)

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. T.P.S. Teji, Advocate for the petitioner.

Ms. Bhavna Gupta, Deputy Advocate General, Punjab.

Harsimran Singh Sethi, J. (Oral)

The present petition has been filed under Section 439 Cr.P.C. for the grant of regular bail to the petitioner in FIR No. 185 dated 29.09.2019, under Sections 22, 29 of Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station B-Division, Amritsar, District Amritsar.

Learned counsel for the petitioner argues that the petitioner has already undergone custody for a period of more than one and half year and, therefore, he be granted the benefit of regular bail.

Notice of motion.

Ms. Bhavna Gupta, learned Deputy Advocate General, Punjab, who has joined the proceedings through video conference, keeping in view the service of advance copy of petition, accepts notice on behalf of the respondent-State. Learned State counsel submits that the recovery of the banned drugs, which is commercial in nature, has been done from the petitioner. Learned

State counsel further submits that keeping in view the nature of recovery, the petitioner be not granted the benefit of regular bail as being prayed.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

The petitioner was found in possession of approximately 9000 intoxicating tablets, which is banned substance under the NDPS Act, 1985 and quantity of the drugs is commercial in nature. Not only this, the co-accused was also found in possession of approximately 16000 tablets of the banned drugs. The possession of such a large quantity of banned drugs cannot be said to be for his own use but was intended to be sold. Section 37 of the NDPS Act clearly lays down that the bail can only be granted in case the Court is satisfied that petitioner is not guilty of the such offence and the accused is not likely to commit the same again while on bail. In the facts and circumstances of the case, at this stage, this Court is unable to conclude that petitioner is either innocent or will not commit the same offence while on bail.

In the present case, nothing has been pointed out on merits of the case and the prayer of the bail is only keeping in view the fact that petitioner is behind the bars for the last more than one and half year. In the cases related to violation of the NDPS Act, 1985, the custody period is to be treated insignificant in case the allegations are serious in nature and in the present case, the recovery of the banned drugs is not only commercial but is of large quantity, hence, petitioner cannot be granted bail only on the basis that petitioner is behind the bars for more than one and half year.

In the facts and circumstances of the present case, this Court is not satisfied, at this stage, that the petitioner is not guilty of the such offence

or is not likely to commit the offence while on bail.

Keeping in view the above facts merely on the ground that the petitioner has undergone custody for a period of more than one and half year, he cannot be granted the benefit of regular bail.

Dismissed.

However, it is made clear that anything observed herein shall not be construed to be an expression of any opinion on the merits of the case.

April 22, 2021
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether reasoned/speaking? *Yes/No*
Whether reportable? *Yes/No*