

CRM-M-16770-2021 (O&M)

THROUGH VIDEO CONFERENCE

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

**CRM-M-16770-2021 (O&M).
Decided on: July 30, 2021.**

Gurjant Singh

.. Petitioner

VERSUS

State of Haryana

.. Respondent

*** * ***

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

*** * ***

**PRESENT Mr.Harinder Singh Aujla, Advocate,
for the petitioner.**

Mr.Naveen Singh Panwar, DAG, Haryana.

JASGURPREET SINGH PURI, J. (ORAL)

The present **third** petition has been filed under Section 439 of the Code of Criminal Procedure, seeking regular bail in FIR No.329 dated 8.10.2019, under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station Sadar, District Jind.

Learned counsel for the petitioner has submitted that the petitioner has been falsely implicated in the present case and he is in custody since 08.10.2019 and only two witnesses have been examined by the prosecution. He has submitted that the alleged recovery from the petitioner was 75 kgs. of poppy husk. The reason for grant of bail is the long

CRM-M-16770-2021 (O&M)

custody of the petitioner.

On the other hand, learned State counsel has submitted that although it is correct that the petitioner is in custody since 08.10.2019 but there has been a recovery of 75 kgs. of poppy husk from the petitioner and due procedure was adopted at the time of recovery. He has stated that the recovery is of a commercial quantity and the bail application of the petitioner is hit by Section 37 of NDPS Act. He has referred to the judgment of the Hon'ble Supreme Court in **State of Kerala etc. Vs Rajesh Etc. 2020 (1) RCR (Criminal) 818.** He has further submitted that the petitioner is also involved in three other cases of NDPS Act out of which in one case he has been acquitted and in the other case he has been convicted and the third case is still pending and the petitioner is a habitual offender. He has further submitted that due to Covid-19 pandemic the courts are functioning restrictively and the long custody of the petitioner cannot become a ground for grant of bail especially in view of the bar contained under Section 37 of the NDPS Act. He has further raised an objection by stating that the petitioner had earlier also filed bail application before this Court which was dismissed as withdrawn on 08.09.2020 vide CRM-M-9095-2020 and thereafter, he again filed bail application which was again dismissed as withdrawn on 21.01.2021 vide CRM-M-42218-2020 and now the present petition is the **third** successive application and there is no change of circumstance and therefore, the present petition is not maintainable.

I have heard the learned counsel for the parties.

It is correct that the petitioner is in custody since

CRM-M-16770-2021 (O&M)

08.10.2019 as per the learned counsel for the parties but the present petition is liable to be dismissed on two scores. Firstly, the recovery from the petitioner was 75 kgs. of poppy husk which is a commercial quantity under the NDPS Act and therefore, hit by bar contained under Section 37 of the NDPS Act. Although, departure can be made from the bar contained under Section 37 of the NDPS Act but there is no ground available with the petitioner to show as to how and why a departure should be made from the bar. Furthermore, the petitioner was involved in three other cases out of which in one case he has been acquitted and in other case he has been convicted and the third is still pending and all the three cases pertain to NDPS Act. Secondly, earlier two applications were withdrawn by the petitioner and the second bail application was withdrawn on 21.01.2021 and there is no change of circumstance shown to this Court for the maintainability of the third successive bail application.

In view of the above, no case is made out for grant of bail and consequently, the present petition for the grant of regular bail is hereby dismissed.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant only for the purpose of decision of present petition.

July 30, 2021.
raj arora

(JASGURPREET SINGH PURI)
JUDGE

Whether speaking / reasoned
Whether reportable

Yes / No
Yes / No