

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

202

CRM-M-30538-2020

Date of Decision : March 02, 2021

GURMUKH SINGH

.....Petitioner

VERSUS

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present : None for the petitioner.

Mr. Harpreet Multani, AAG, Punjab.

JASGURPREET SINGH PURI. J. (Oral)

The present petition has been filed under Section 439 of the Code of Criminal Procedure for the grant of regular bail to the petitioner in case bearing FIR No. 24 dated 19.8.2018 registered under Section 21 of the NDPS Act, 1985 at Police Station Patara, District Jalandhar.

On the first date of hearing i.e. 9.10.2020, Mr. Naveen Sharma, Advocate had caused appearance on behalf of the petitioner, who had made a request for an adjournment. Thereafter, on 30.10.2020, none appeared on behalf of the petitioner and the matter was adjourned. On 4.12.2020 again nobody had appeared on behalf of the petitioner and the matter was adjourned. Thereafter, on 5.2.2021, again nobody had appeared on behalf of the petitioner and, therefore, this Court directed the Registry to inform the learned counsel for the petitioner regarding the next date of hearing. The Registry has reported that the learned counsel for the petitioner has been informed about the date fixed. However, still nobody has caused appearance on behalf of the petitioner.

Since the matter pertains to the bail application of the petitioner, the same would, therefore, be taken up on the basis of averments made in the petition with the assistance of the learned State counsel.

This is the second petition filed by the petitioner seeking regular bail. Earlier, he had filed CRM-M-32709 of 2019 which was dismissed as withdrawn on 24.2.2020. In that case, the Senior Superintendent of Police (Rural), Jalandhar had filed an affidavit wherein it was stated that there were total 11 prosecution witnesses in the present matter out of which 6 witnesses were not summoned being unnecessary and summons were issued to remaining 5 witnesses and warrants were also issued to the to the summoned witnesses. Further more, the entire evidence of the case was complete and even the departmental proceedings had also been initiated against the erring officials. Thereafter, the learned counsel for the petitioner withdrew the petition.

The learned State counsel, on instructions from ASI Kulwinder Singh has submitted that the entire prosecution evidence in the present case is complete and the matter is now fixed for recording of statement of the accused under Section 313 Cr.P.C. He further submitted that there was a recovery of 260 grams of Heroin from the possession of the petitioner which falls within the category of commercial quantity and, therefore, the petitioner may not be released on bail in view of the bar contained under Section 37 of the NDPS Act.

The learned State counsel has filed the custody certificate in the Court which is taken on record. As per the custody certificate, the petitioner is involved in two more cases under the NDPS Act.

I have heard the learned State counsel.

In the present case, as per the learned State counsel, the trial is at the fag end and the prosecution evidence is complete and the matter is fixed for recording of statement of the accused under Section 313 Cr.P.C. Even otherwise also, the bar of Section 37 of the NDPS Act will be operative in view of the fact that the recovery was that of 260 grams of Heroin which falls under the commercial quantity and, therefore, no case is made out for the grant of regular bail to the petitioner.

Consequently, the present petition is dismissed.

March 02, 2021
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(JASGURPREET SINGH PURI)
JUDGE

Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No