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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CCRM-M-2055-2022
Date of Decision: 03.02.2022

Sawayi Ram @ Sawai Singh

....Petitioner(s)

Versus

State of Punjab

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Pankaj Bali, Advocate, for the petitioner.

Mr. Randhir Singh Thind, DAG, Punjab.

Through Video Conferencing

JASGURPREET SINGH PURI, J. (Oral)

This is the second petition filed under Section 439 of the Code of Criminal Procedure for the grant of regular bail to the petitioner in FIR No. 0001 dated 04.01.2021, under Sections 18, 61 of NDPS Act, registered at Police Station Division No.2, Ludhiana, although in the head note of the petition it is stated to be the first petition.

The learned counsel for the petitioner has submitted that the present case was planted upon the petitioner and he had only come from his native place at Rajasthan and the police has planted the present case upon the petitioner. He further submitted that the petitioner is not involved in any other case and he is in custody from 04.01.2021 which is almost more than one year and the case is fixed for prosecution evidence. He further submitted

that the alleged recovery from the petitioner was 2.6 Kgs. of opium which is marginally higher than the commercial quantity as provided in the schedule of the NDPS Act and, therefore, he may be considered for the grant of regular bail.

On the other hand, Mr. Randhir Singh Thind, learned DAG, Punjab has submitted that so far as the custody period of the petitioner is concerned, the same is correct and it is also correct that the petitioner is not involved in any other case as per the custody certificate which has been filed today by way of email since the matter is taken up through video conferencing. The custody certificate is hereby taken on record. Learned Deputy Advocate General further submitted that it is a case where the petitioner was caught on the spot and thereafter the compliance of Section 50 of the NDPS Act was carried on and he was searched in the presence of a gazetted officer and thereafter recovery of 2.6 Kgs. of opium was effected from the petitioner which is of a commercial quantity and, therefore, the plea of the petitioner is hit by the bar contained under Section 37 of the NDPS Act. He further submitted that there is no ground available with the petitioner to make a departure from the aforesaid statutory bar under Section 37 of the NDPS Act and has prayed for dismissal of the present petition.

I have heard the learned counsel for the parties.

The alleged recovery from the petitioner is 2.6 Kgs. of opium. The petitioner has not been able to make out any ground for making any departure from the bar contained under Section 37 of the NDPS Act. The plea raised by the learned counsel for the petitioner that the petitioner is in custody from 04.01.2021 would not itself become a ground for grant of bail

to the petitioner in view of the bar contained under Section 37 of the NDPS Act. Apart from the same the petitioner has earlier also filed a bail petition before this Court which was dismissed as withdrawn on 30.07.2021.

In view of the aforesaid position, no ground is made out for the grant of regular bail to the petitioner, therefore, the present petition is dismissed.

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

03.02.2022

rakesh

(JASGURPREET SINGH PURI)
JUDGE

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