

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

210

CRM-M-3628-2021

Date of Decision : **July 05, 2022**

MANGAL SINGH @ MANGLI

.....Petitioner

VERSUS

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present : Mr. Hoshiar Singh, Advocate
for the petitioner.

Mr. Davinder Bir Singh, DAG, Punjab.

JASGURPREET SINGH PURI. J. (Oral)

The present petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No.293 dated 7.12.2019 under Section 21 of NDPS Act, registered at Police Station Sadar Fazilka, District Fazilka.

It has been submitted by the learned counsel for the petitioner that the petitioner is in custody from 7.12.2019 and is not involved in any other case. He submitted that the charges have been framed on 10.3.2022 and there has been a delay on the part of the prosecution and he may be considered for the grant of regular bail.

On the other hand, the learned State counsel has submitted that it is a case where allegedly the petitioner was going in a bullock cart and on suspicion his bullock cart was checked by the BSF personnel and thereafter the present FIR had been registered when there was a recovery of 2 kgs and 156 grams of Heroin. He submitted that the recovery was from the petitioner and that too from an area which is a border area and the recovery was effected with the assistance of BSF personnel. He further submitted that there is no ground available with the petitioner for the grant of bail in view of the bar contained under Section 37 of NDPS

Act since the confiscated recovery falls within the category of commercial quantity. He submitted that although the petitioner is not involved in any other case but in view of the aforesaid factual position and the bar contained under Section 37 of NDPS Act, the petition may be dismissed.

I have heard the learned counsels for the parties.

The petitioner is in custody from 7.12.2019. With regard to the delay, this Court had directed the learned Sessions Judge, Fazilka to file a report as to why delay had occurred. A report has been received from the learned District and Sessions Judge, Fazilka dated 28.2.2022 in which it has been stated by the learned Judge, Special Court, Fazilka that he had joined on 2.4.2021 and a total 10 adjournments were granted by the concerned Court out of which on 8 respective dates the accused was not produced in the Court and 2 adjournments were granted prior to the date fixed in view of the directions conveyed due to outbreak of Covid-19. The charges have been framed on 10.3.2022. The allegations against the petitioner are with regard to the recovery of 2 kgs of 156 grams of Heroin detected by the BSF in the border area of Fazilka. The petitioner has not been able to make out any ground for making a departure from the bar contained under Section 37 of NDPS Act since the confiscated quantity falls within the category of commercial quantity.

Consequently, finding no merit in the present petition, the same is, hereby, dismissed.

However, anything observed here-in-above shall have no effect on the merits of the case and is meant for deciding the present petition only.

July 05, 2022
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(JASGURPREET SINGH PURI)
JUDGE

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