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

**CRM-M-3769-2022
Date of Decision: 05.04.2022**

Dharminder Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Gurpal Singh Sandhu, Advocate,
for the petitioner.

Mr. R.S. Thind, DAG, Punjab.

JASGURPREET SINGH PURI, J. (ORAL)

This is the second petition filed under Section 439 of the Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.228 dated 28.10.2018, under Section 22 of the N.D.P.S. Act, 1985, registered at Police Station City Moga, District Moga.

It has been submitted by learned counsel for the petitioner that the petitioner is in custody since 28.10.2018 and although 800 tablets of *Alprazolam* were recovered from the petitioner but the provisions of Section 50 of the N.D.P.S. Act was not complied with. He further submitted that considering the long custody of the petitioner, he may be considered for the grant of regular bail.

On the other hand, Mr. R.S. Thind, learned Deputy Advocate General, Punjab has stated that it is correct that the petitioner is in custody

since 28.10.2018 but out of 15 cited prosecution witnesses only six have been examined and it appears that the trial has delayed only because of the Covid-19 restrictions, but now trial is progressing. He further submitted that it is a case where the petitioner along with the co-accused were caught on a motorcycle and there was a recovery of 800 tablets of *Alprazolam* and therefore, the prayer of the petitioner is hit by the bar contained under Section 37 of the N.D.P.S. Act. He also submitted that the bail application of the other co-accused has since been dismissed by this Court. He further submitted that the motorcycle on which the petitioner and the co-accused were traveling was a stolen motorcycle and there had been a recovery of 8 stolen motorcycles from the petitioner and 12 stolen motorcycles from the co-accused, namely, Harjinder Singh @ Honey. He also submitted that in case the petitioner is released on bail then there is an apprehension that he may repeat the offence or may even abscond or flee from justice.

I have heard the learned counsel for the parties.

Although, the petitioner is in custody from 28.10.2018 but as per the learned State counsel, the trial is now progressing. The confiscated quantity falls within the parameters of commercial quantity under the N.D.P.S. Act, but no ground has been made out by the petitioner for making a departure from the bar contained under Section 37 of the N.D.P.S. Act. So far as the fulfillment of condition of Section 50 of the N.D.P.S. Act is concerned, it was submitted by learned State counsel that a consent memo was prepared and therefore, it cannot be said that there was a non-compliance of Section 50 of the N.D.P.S. Act. Apart from the same, there had been a recovery of 8 stolen motorcycles from the petitioner and 12 from

the co-accused, who was traveling along with petitioner, therefore, considering the antecedents of the petitioner and the apprehension expressed by the learned State counsel that in case the petitioner is released on bail then he may repeat the offence and may abscond or flee from justice, coupled with the fact that the prayer of the petitioner is hit by the bar contained under Section 37 of the N.D.P.S. Act, this Court does not deem it fit and proper to grant regular bail to the petitioner, consequently, finding no merit in the present petition and the same is hereby dismissed.

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

05.04.2022*Bhumika***(JASGURPREET SINGH PURI)
JUDGE**

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| 1. Whether speaking/reasoned: | Yes/No |
| 2. Whether reportable: | Yes/No |