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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-13245-2022

Date of Decision: 19.07.2022

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....Petitioner(s)

Versus

State of Haryana

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. V.B. Godara, Advocate, for the petitioner.

Mr. Naveen Singh Panwar, DAG, Haryana

JASGURPREET SINGH PURI, J. (Oral)

The present is a third petition filed under Section 439 of the Code of Criminal Procedure for the grant of regular bail to the petitioner in FIR No. 84 dated 03.05.2020, under Sections 188, 269 IPC, Section 51-B of Disaster Management Act, 2005 and Sections 15/27-A/31 of NDPS Act, registered at Police Station Sadar Tohana, District Fatehabad, Haryana.

It has been submitted by the learned counsel for the petitioner that although this is a third successive bail petitions for grant of regular bail but the earlier two bail applications have been withdrawn in the year 2020 and 2021 respectively. He further submitted that now the custody of the petitioner is more than 2 years and 2 months and till date no prosecution witness has been examined despite the fact that the charges were framed on 03.12.2021. He further submitted that the alleged recovery in the present

case from the present petitioner was 33 Kg. of poppy husk and the same does not fall in the category of commercial quantity. He further submitted that although the petitioner was earlier involved under the NDPS Act and was convicted but in the present case he has been falsely implicated only because of the reason that he was earlier involved in some other case and therefore, the police has falsely implicated the petitioner in the present case. He submitted that be that as it may, in view of the custody of the petitioner and also the fact that no prosecution witness has been examined till date despite the fact that 7 months have elapsed after the framing of the charges, the petitioner deserves the concession of the regular bail.

On the other hand, Mr. Naveen Singh Panwar, learned Deputy Advocate General, Haryana has submitted that it is correct that the petitioner is in custody for 2 years and 2 months and it is also correct that the charges were framed on 03.12.2021 and till date no prosecution witness has been examined. He further submitted that the confiscated quantity from the petitioner does not fall in the category of commercial quantity. He has however opposed the grant of bail on the ground that the petitioner does not have clean antecedents.

I have heard the learned counsel for the parties.

The petitioner is in custody from 03.05.2020 which is more than 2 years and 2 months. The charges in the present case were framed on 03.12.2021 and as per the learned counsel for the parties no prosecution witness has been examined till date. On a query being raised to the learned State counsel as to what was the justification for delay in the trial and as to why for the last 7 months no prosecution witness has been examined, no justifiable answer came in this regard. Undoubtedly, the petitioner is also

involved in other cases but the fact that the subject matter of the present case pertains to a non-commercial quantity and the custody of the petitioner is 2 years and 2 months, this Court is of the view that in view of the aforesaid position coupled with the fact that more than 7 months have elapsed but no prosecution witness has been examined, the petitioner deserves the concession of regular bail. Furthermore it is not the case of the State that in case the petitioner is released on bail, then he may influence any witness or may tamper evidence or may flee from justice.

Consequently, the present petition is allowed. The petitioner shall be released on regular bail subject to furnishing bail bonds/surety to the satisfaction of the learned trial Court/Duty Magistrate concerned.

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.

19.07.2022

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**(JASGURPREET SINGH PURI)
JUDGE**

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