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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-15300-2022
Date of Decision: 13.05.2022

Kailash Labana

....Petitioner(s)

Versus

State of Punjab

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Ms. Arti Grewal, Advocate, for
Mr. R.S. Brar, Advocate, for the petitioner.

Mr. Sandeep Singh Deol, DAG, 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 FIR No.57 dated 07.04.2019, under Section 20 of NDPS Act, registered at Police Station Bhogpur, District Jalandhar.

Ms. Arti Grewal, Advocate appearing on behalf of Mr. R.S. Brar, Advocate has submitted that the petitioner is in custody from 07.04.2019 and the petitioner has been falsely implicated in the present case because the story put forward by the prosecution is highly improbable. She further submitted that as per the prosecution and the FIR, the petitioner alongwith other co-accused were carrying transparent polythene bags from which there was a recovery of 4 Kgs. charas which is highly improbable.

She further submitted that although there was a recovery of 4 Kgs. each from the two accused including the petitioner but considering the custody of the petitioner, he may be considered for the grant of regular bail.

On the other hand, Mr. Sandeep Singh Deol, learned Deputy Advocate General, Punjab has submitted on instructions that although the petitioner is in custody from 07.04.2019 but the petitioner is a habitual offender. He further submitted that the petitioner is also involved in another case of NDPS Act in the State of Gujarat and he was lodged in the jail in Gujarat from where he absconded and thereafter, he was apprehended by the police in the State of Punjab in the present case. He further submitted that thereafter the petitioner was admitted to the Ahmedabad jail in the year 2019 which may have resulted in delay of the trial. He further submitted that there was a recovery of 4 Kgs. of charas each from the two accused which they were carrying which falls in the commercial quantity under the NDPS Act and, therefore, hit by the bar contained under Section 37 of the NDPS Act. He further submitted that there is no ground available with the petitioner for making a departure from the bar contained under Section 37 of the NDPS Act.

I have heard the learned counsel for the parties.

It is a case where there is alleged recovery of 4 Kgs. of charas from the petitioner and another 4 Kgs. of charas from the other co-accused which falls in the category of commercial quantity. Apparently the prayer of the petitioner for the grant of bail is hit by the bar contained under Section 37 of the NDPS Act. Learned counsel for the petitioner has not been able to make out any ground for making a departure from the bar contained under Section 37 of the NDPS Act. So far as the delay of the trial is concerned, it

has been justified by the learned State counsel that the petitioner was earlier lodged in Gujarat jail and due to the same reason the trial has not progressed. Learned State counsel further submitted that the petitioner is still in the Gujarat jail. Be that as it may the prayer of the petitioner is hit by the bar contained under Section 37 of the NDPS Act.

Consequently, finding no merit in the present petition, 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 meant for the purpose of deciding the present petition only.

13.05.2022

rakesh

(JASGURPREET SINGH PURI)
JUDGE

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