

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

219

CRM-M-21255-2022

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

AMRIK SINGH

.....Petitioner

VERSUS

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present : Mr. R.S.Bajwa, Advocate
for the petitioner.

Mr. Amit Rana, Sr. Deputy A.G., Punjab.

JASGURPREET SINGH PURI. J. (Oral)

The present is a second petition filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 161 dated 19.8.2019 under Section 22 of NDPS Act, 1985, registered at Police Station Samana, District Patiala.

It has been submitted by the learned counsel for the petitioner that it is a case where the petitioner is in custody from 19.8.2019 which is more than 3 years and the trial of the case is commencing at a very slow pace and the delay is at the hands of the prosecution. He submitted that even otherwise also as per the allegations, a secret information was received with regard to the fact that three persons were coming on the motor cycle and as per the prosecution itself there was no recovery from the person of the petitioner or even the other co-accused and as per the prosecution, even the packets which contained 6600 of Alprazolam and 1800 tablets of tramadol fell down on the

ground and from where the recovery was made. Learned counsel submitted that the petitioner has been falsely implicated and he is not involved in any other case and has clean antecedents. He further submitted that the other co-accused, namely, Maycal Singh and Angrej Singh have been enlarged on bail by this Court vide CRM-M-9822-2020 and CRM-M-5403-2021 Annexures P-1 and P-2. He submitted that in view of the fact that there was no recovery from the petitioner, the petitioner may be considered for the grant of regular bail since the provisions of Section 37 of NDPS Act will not apply in the present case.

On the other hand, the learned State counsel has submitted that it is correct that the other co-accused have been granted regular bail by this Court. He also submitted that it is also correct that the petitioner has faced incarceration for more than 3 years. So far as the progress of the trial is concerned, he submitted that out of total 11 cited witnesses, two witnesses have been examined, three have been given up and six witnesses are yet to be examined. He further submitted that it is also correct that the recovery was not made from the petitioner but from the floor where it had fallen down from the motor cycle. He submitted that it is also correct that the petitioner is not involved in any other case.

I have heard the learned counsels for the parties.

Although the petitioner has faced incarceration for more than 3 years and the other co-accused have been granted bail by this Court vide CRM-M-9822-2020 and CRM-M-5403-2021 Annexures P-1 and P-2, but so far as the applicability of Section 37 of NDPS Act is concerned, as per the prosecution itself there was no recovery from the

petitioner and as per the prosecution the recovery was made from the floor where allegedly the tablets fell. As per the learned counsel for the petitioner admittedly the petitioner is not involved in any other case and has faced incarceration for more than 3 years. The 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 plea of the petitioner with regard to the parity with the other co-accused is concerned, the same cannot be considered since the other two co-accused were granted bail without considering the bar contained under Section 37 of the NDPS Act. In the present case, there was a recovery of about 1800 tablets of tramadol and 6600 tablets of Alprazolam which falls in commercial quantity and no ground is made out for making a departure from the bar contained under Section 37 of NDPS Act.

Consequently, the present petition is, hereby, dismissed.

However, considering the long custody of the petitioner which is more than 3 years, the trial Court is directed to expedite the trial and conclude the same as expeditiously as possible and in accordance with law.

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.

(JASGURPREET SINGH PURI)
JUDGE

September 05, 2022
ajay-1

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