

239
IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-29947-2022
Date of Decision: 20.07.2022

Lakhveer Singh @ Lali

....Petitioner(s)

Versus

State of Punjab

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Munish Garg, Advocate, for the petitioner.

Mr. Randhir Singh Thind, DAG, Punjab.

JASGURPREET SINGH PURI, J. (Oral)

The present petition filed has been under Section 439 of the Code of Criminal Procedure for the grant of regular bail to the petitioner in FIR No. 74 dated 18.06.2021, under Sections 21, 25 of NDPS Act, registered at Police Station Tappa Mandi, District Barnala.

It has been submitted by the learned counsel for the petitioner that the petitioner is in custody from 14.07.2021 which is almost one year. He further submitted that the name of the petitioner has been nominated on the basis of the disclosure statement of the co-accused from whom there was alleged recovery of 4520 tablets of Tramadol and 220 grams heroin and on the basis of his disclosure statement, the name of the petitioner has been nominated. He further submitted that the disclosure statement of a co-accused is not admissible in evidence. He further submitted that since the

petitioner is in custody for the last 1 year, he may be considered for the grant of regular bail.

Mr. Randhir Singh Thind, learned Deputy Advocate General, Punjab has submitted that it is correct that the petitioner is in custody from 14.07.2021 but the petitioner is not entitled for the grant of regular bail in view of the bar contained under Section 37 of the NDPS Act. He further submitted that although the petitioner has been nominated on the basis of the disclosure statement of the co-accused but it is a case where there is sufficient material available with the police to connect the petitioner with the present offence. He further submitted that one day prior to the registration of this FIR, another FIR was registered against the petitioner in which there was a recovery of 30 grams of heroin and Rs. 30,000/- drug money from the petitioner and in that case also the petitioner is an under trial. He further submitted that there is one other case under the NDPS Act against the petitioner in which there was a recovery of 38 grams of heroin and in this way, the petitioner is involved in 3 cases under the NDPS Act. Apart from these three cases under the NDPS Act, he is also involved in two more cases under the IPC and in one case he has already been convicted under Sections 357/380 IPC. He further submitted that there is sufficient material available with the police to connect the petitioner with the present offence and therefore, the bar contained under Section 37 of the NDPS Act will apply in the present case.

I have heard the learned counsel for the parties.

The recovery in the present case from the co-accused was 4520 tablets of Tramadol and 220 grams of heroin which is a large quantity and falls within the category of commercial quantity under the NDPS Act. The

argument raised by the learned counsel for the petitioner that he was nominated on the basis of disclosure statement of a co-accused which is not admissible in evidence cannot sustain in the present case in view of the facts and circumstances whereby just one day before the present FIR he was allegedly caught with 30 grams of heroin and yet in another case he was allegedly caught with 38 grams of heroin and therefore, the argument raised by the learned counsel for the petitioner is not sustainable. During the course of arguments learned counsel for the petitioner has submitted that the petitioner has since been acquitted in one of the case pertaining to IPC. The said argument of the learned counsel for the petitioner would also be not of any help to the petitioner in view of the totality of facts and circumstances of this case. The learned counsel has not been able to make out any ground for making a departure from 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.

20.07.2022

rakesh

**(JASGURPREET SINGH PURI)
JUDGE**

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