

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

244

CRM-M-40104 of 2022

Date of Decision:23.11.2022

Harmesh Singh @Meshi @ Kala

....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Gurbir Singh Sidhu, Advocate, for the petitioner.
Mr. Kunal Vinayak, AAG, 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.313 dated 24.06.2021, under Sections 22, 25 of the NDPS Act (Section 411 IPC added later), registered at Police Station City Barnala, District Barnala.

It has been submitted by the learned counsel for the petitioner that the petitioner is in custody from 16.08.2021 and the investigation of the case has already been completed and thereafter the report under Section 173 of the Code of Criminal Procedure has been submitted to the competent Court. He submitted that after framing of the charges in the present case, one prosecution witness has now been examined. He submitted that it is a case where the petitioner has been falsely implicated and even as per the prosecution itself, they got an information that two persons out of which one person was the petitioner and another person namely Jagjit Singh @ Jeeta were coming on a motorcycle and on the basis of information, they caught the aforesaid co-accused namely Jagjeet Singh @ Jeeta whereas the

petitioner was not even present there and the information was false and he was not caught on the spot since he was not present. He submitted that since the petitioner was earlier also involved in number of other cases under NDPS act it was due to that reason that he has been falsely implicated in the present case and thereafter he was arrested on the basis of production warrants in another case. He further submitted that there was a recovery of 1000 tablets of Tramadol from the possession of the co-accused.

However, on the other hand, Mr. Kunal Vinayak, learned AAG, Punjab has stated, on instructions from ASI Darshan Singh, that the petitioner is involved in 7 more cases out of which one case is under the NDPS Act and it is a case where the police got specific information with regard to the petitioner and other co-accused and when the police party raided the place the petitioner fled away from the spot and thereafter even the other co-accused has also disclosed the name of the present petitioner and the said fact is also recorded in the zimni of the police proceedings. Learned State counsel further submitted that in view of the aforesaid position where there was specific information with the police with regard to the petitioner as well which was corroborated by the disclosure statement, the petitioner does not deserve the concession of regular bail. He has further submitted that the aforesaid co-accused namely Jagjit Singh @ Jeeta also filed a bail petition before this Court in CRM-M-7695 of 2022 which has been dismissed by this Court on 25.08.2022. He further submitted that in the other case in which the petitioner was involved under the NDPS Act there was a recovery of 3700 intoxicant tablets from the petitioner. In the present case, there was recovery of 1000 tablets of Tramadol from co-accused which falls under the category of commercial quantity and

therefore is hit by the bar contained under Section 37 of the NDPS Act.

I have heard the learned counsel for the parties.

The petitioner is stated to be in custody from 16.08.2021. As per the FIR itself, the information was received by the police with regard to the fact that the petitioner and other co-accused namely Jagjit Singh @ Jeeta were carrying intoxicant substance and when the police party raided the place, as per the learned State counsel, the petitioner fled away from the spot and thereafter he was arrested in some other case. The bail petition of the other co-accused has already been dismissed by this Court on 25.08.2022. The confiscated quantity falls under the category of commercial quantity under the provisions of NDPS Act. 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. As per the learned State counsel, the petitioner is also involved in number of cases, out of which one case pertains to the NDPS Act.

Therefore, in view of the aforesaid position and considering the antecedents of the petitioner, this Court does not deem it fit and proper to grant the regular bail to the petitioner and therefore 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 only meant for the purpose of decision of present petition.

(JASGURPREET SINGH PURI)
JUDGE

November 23, 2022

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