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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-48290-2021
Date of Decision: 18.04.2022

Gurjant Singh

....Petitioner(s)

Versus

State of Haryana

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Ms. Manpreet Ghuman, Advocate, for the petitioner.

Mr. Naveen Singh Panwar, DAG, Haryana.

JASGURPREET SINGH PURI, J. (Oral)

The present is the fifth petition filed under Section 439 of the Code of Criminal Procedure for the grant of regular bail to the petitioner in FIR No. 329 dated 08.10.2019, under Sections 15, 29, 61 and 85 of NDPS Act, registered at Police Station Sadar Jind, District Jind.

It has been submitted by the learned counsel for the petitioner that although the present is the fifth petition for grant of regular bail but one of the earlier petition was only for grant of interim bail and two other petitions were dismissed as withdrawn whereas one petition was dismissed on merits. She further submitted that in fact it is a case where the police party which had allegedly caught the petitioner with 75 Kgs. of poppy husk was itself involved in the illegal trade of poppy husk and the police party was headed by one ASI Jaiveer who falsely implicated the petitioner. She

further submitted that vide Annexure P-2 an FIR has been lodged against the aforesaid ASI Jaiveer and some other police officials under the NDPS Act for possessing 398 Kgs. of poppy husk. She further submitted that the petitioner is in custody for about 2 ½ years and the trial is being delayed only for want of depositions to be made by the aforesaid police officials who are now themselves accused in the aforesaid FIR Annexure P-2. She further submitted that in view of the aforesaid position, the present successive bail application may be considered for the grant of regular bail.

On the other hand, Mr. Naveen Singh Panwar, learned DAG, Haryana has submitted that it is a case where the petitioner was caught by the police party and from his possession about 75 Kgs. of poppy husk was recovered which falls in the category of commercial quantity as per the NDPS Act and, therefore, the prayer of the petitioner for the grant of bail is hit by the bar contained under Section 37 of the NDPS Act. He further submitted that so far as the police party being involved in another FIR vide Annexure P-2 is concerned, the same cannot become a ground for grant of bail to the petitioner.

I have heard the learned counsel for the parties.

Although it is a successive bail application but the learned counsel for the petitioner has raised two issues. Firstly that the petitioner is in custody for about 2½ years and that trial is being delayed only for want of depositions to be made by the police officials and secondly the police party which had raided and caught the petitioner are themselves involved in the illegal trading of poppy husk. Therefore, in view of the aforesaid submissions made by the learned counsel for the petitioner, this Court is of the opinion that although the successive bail application would be

maintainable but no ground is made out for grant of bail in view of the bar contained under Section 37 of the NDPS Act. The aforesaid ground taken by the learned counsel for the petitioner that the police party themselves got involved in another case pertaining to the NDPS Act cannot become a ground for grant of bail to the petitioner.

In view of above, the present petition is hereby dismissed. However, considering the long custody of the petitioner and the aforesaid fact that the trial is being delayed only for want of depositions by the official witnesses, it will be in the interest of justice to direct the learned trial Court to expedite the trial.

Consequently, the learned trial Court is directed to expedite the trial accordingly.

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.

18.04.2022

rakesh

**(JASGURPREET SINGH PURI)
JUDGE**

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