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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-50503-2021
Date of Decision: 07.02.2022

Arun Kumar

....Petitioner(s)

Versus

State of Punjab

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. A.S. Saini, Advocate, for the petitioner.

Mr. Randhir Singh Thind, DAG, Punjab.

Through Video Conferencing

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. 105 dated 14.08.2021, under Sections 22/61/85 of NDPS Act, registered at Police Station Shambu, District Patiala.

It has been submitted by the learned counsel for the petitioner that earlier the petitioner was granted interim bail by this Court in view of the fact that FSL report was not received. He further submitted that now the FSL report has received and on the receipt of the FSL report the petitioner has now surrendered before the jail authorities.

On merits, the learned counsel for the petitioner has submitted that the alleged recovery from the petitioner and the other co-accused was 75

injections of Buprenorphine containing 2 ml each and 75 bottles of Pheniramine Maleate. He further submitted that so far as the Pheniramine Maleate is concerned, the same is not covered under the NDPS Act and so far as the other injections of Buprenorphine are concerned, it has been confirmed by the Forensic Science Laboratory, the same are although falling in the commercial quantity but since the petitioner is in custody from 14.08.2021 and he is suffering from HIV infection, he may be considered for the grant of regular bail..

On the other hand, Mr. Randhir Singh Thind, learned DAG, Punjab has submitted that the recovered quantity after complying with the procedure contained in the NDPS Act was of a commercial category and there is no ground available with the petitioner for making a departure from the bar contained under Section 37 of the NDPS Act. He further submitted that so far as the argument raised by the learned counsel for the petitioner that the petitioner is suffering from HIV positive, the same is being treated in the jail hospital and, therefore, it cannot constitute a ground for grant of regular bail to the petitioner.

I have heard the learned counsel for the parties.

The confiscated quantity of 75 injections of Buprenorphine containing 2 ml each, totalling 150 ml and, therefore, it was a commercial quantity and petitioner has not been able to make out any ground for making any departure from the bar contained under Section 37 of the NDPS Act. So far as the infection of HIV is concerned, the petitioner is being treated in the jail hospital regularly as per the learned State counsel.

In view of the aforesaid position, no ground is made out for the grant of regular bail to the petitioner, therefore, the present petition is

dismissed.

However, it is made clear that in case the petitioner has any kind of medical emergency because of his health condition, he can always file a fresh petition in accordance with law.

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.

07.02.2022

rakesh

(JASGURPREET SINGH PURI)
JUDGE

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