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

CRM-M-46333-2022
Date of Decision: 11.11.2022

GURPREET SINGH

..Petitioner(s)

Versus

STATE OF PUNJAB

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Bhisham Kumar, Advocate for
Mr. O.P. Kamboj, 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. 08 dated 24.01.2022, under Sections 21, 25, 29 of NDPS Act, registered at Police Station Sadar Moga, District Moga.

Learned counsel appearing on behalf of the petitioner has submitted that the petitioner is in custody from 26.01.2022 and investigation of the case has been completed and thereafter, the challan has been presented. He further submitted that the name of the petitioner was nominated on the basis of the disclosure statement of the co-accused from whom there was a recovery of 50 grams of heroin and when the petitioner was arrested, there was a recovery of 260 grams of heroin which is marginally higher than the commercial quantity as prescribed under the NDPS Act. He further submitted

that now since the investigation of the case has been completed, the petitioner may be considered for the grant of regular bail.

On the other hand, Mr. Kunal Vinayak, learned Assistant Advocate General, Punjab has submitted that it is correct that the petitioner is in custody from 26.01.2022 but the prayer of the petitioner is hit by the bar contained under Section 37 of the NDPS Act since the recovery from the petitioner was a commercial quantity under the NDPS Act 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 the petitioner is involved in two more cases out of which one pertains to NDPS Act and another case under the Mining Act and he is a habitual offender. He submitted that in view of the aforesaid position, the present petition may be dismissed.

I have heard the learned counsel for the parties.

As per the allegations, there was a confiscation of 260 grams of heroin from the petitioner which falls within the category of commercial quantity under the NDPS Act. The petitioner is also stated to be involved in two more cases out of which one pertains to NDPS Act. There is no ground available with the petitioner nor it has been argued by the learned counsel for the petitioner for making a departure from the bar contained Section 37 of the NDPS Act .

In view of the aforesaid position, this Court does not deem it fit and proper to grant regular bail to the petitioner.

Consequently, the present petition is 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.

11.11.2022

(JASGURPREET SINGH PURI)
JUDGE

rakesh

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