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

\*\*\*\*

**CRM-M-58418-2022**

**Date of Decision: 20.12.2022**

Parveen Rajput

..... Petitioner

Versus

State of Punjab

..... Respondent

**CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI**

Present: Mr. Sukhcharan Singh Gill, Advocate,  
for the petitioner.

Mr. Kunal Vinayak, AAG, Punjab.

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**JASGURPREET SINGH PURI, J. (ORAL)**

The present is a second petition filed under Section 439 of the Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.149, dated 03.10.2020, under Sections 21/61/85 of the N.D.P.S. Act, 1985, registered at Police Station Maqsudan, District Jalandhar Rural.

Learned counsel for the petitioner at the outset has submitted that the petitioner is at parity with the other co-accused, namely, Sumit Khatri, who has been now extended the benefit of regular bail by this Court in CRM-M-43867-2022 on 01.12.2022 vide Annexure P-6, and therefore, the petitioner is also entitled for grant of regular bail. He further submitted that it is a case where the petitioner is in custody from 03.10.2020, which is more than 2 years and 2 months and he is not a habitual offender and is not involved in any other case under the NDPS Act. He also submitted that as per the allegations the petitioner along with the aforesaid co-accused,

namely, Sumit Khatri, was apprehended along with 500 grams of *Heroin* and the entire story put forward by the prosecution was false and the petitioner has been falsely implicated in the present case because the petitioner and the co-accused were going to Jammu and Kashmir along with their friends wherein this case was planted upon them. He further submitted that the effect of Section 37 of the NDPS Act was also considered by this Court in the aforesaid judgment by which the co-accused-Sumit Khatri was granted regular bail by observing that more than 18 times, the Special Court granted adjournments but no prosecution witness was examined except one formal witness, who had collected the sample from the Police *Malkhana* and sent it to the FSL, was examined, therefore, this Court even in the bail order passed in respect of the other co-accused was of the view that the rigor of Section 37 of the NDPS Act would not be attracted in this case considering the conduct of the prosecution. He also submitted that the petitioner is exactly at parity with the aforesaid co-accused, namely, Sumit Khatri and therefore, he 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 for more than 2 years and 2 months and he is not a habitual offender and is not involved in any other case. He further submitted that it is also correct that the petitioner is at parity with the aforesaid co-accused, namely, Sumit Khatri, who has been enlarged on regular bail by this Court vide Annexure P-6.

I have heard the learned counsel for the parties.

The petitioner has faced incarceration for more than 2 years and

2 months and is not a habitual offender. This Court while considering the bail petition of aforesaid co-accused, namely, Sumit Khatri, had dealt in detail the effect of Section 37 of the NDPS Act in the facts and circumstances of the aforesaid case and so far as the present petitioner is concerned, since he is at parity with the aforesaid co-accused, the effect of Section 37 of the NDPS Act will not be applicable to the present petitioner as well.

In view of the above, this Court is of the view that it is a fit case to grant regular bail to the petitioner. Consequently, the present petition is allowed and the petitioner is ordered to be released on bail on furnishing bail bond/surety bond to the satisfaction of the trial Court/Duty Magistrate concerned, if not required in any other case.

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.

**20.12.2022**

*Bhumika*

**(JASGURPREET SINGH PURI)**

**JUDGE**

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|-------------------------------|--------|
| 1. Whether speaking/reasoned: | Yes/No |
| 2. Whether reportable:        | Yes/No |