

217

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-978-2023
Date of Decision: 19.04.2023

Sunil Kumar

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Nikhil Batta, Advocate,
for the petitioner.

Ms. Akshita Chauhan, DAG, Punjab.

JASGURPREET SINGH PURI, J. (ORAL)

This is the second petition filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in FIR No.51, dated 13.04.2021 under Section 22 of the NDPS Act (Sections 29/61/85 of the NDPS Act added later on) registered at Police Station Shambu, District Patiala.

It has been submitted by learned counsel for the petitioner that the petitioner is in custody since 13.04.2021, which is for more than 2 years and the petitioner was falsely implicated in the present case by the police and there had been an alleged recovery of 99 bottles of *Chlorpheniramine Maleate & Codeine Phosphate syrup* of 100 ml. each. He further submitted that as per the prosecution, an information was received by the police that the petitioner was carrying the aforesaid intoxicant liquid in bottles but in

fact the petitioner was falsely implicated in the present case and the petitioner is not involved in any other case. He also submitted that now 7 witnesses have already been examined and 2 have been given up out of the total cited 11 witnesses and considering the custody of the petitioner, he may be considered for grant of regular bail.

On the other hand, Ms. Akshita Chauhan, learned Deputy Advocate General, Punjab submitted that although the custody of the petitioner is more than 2 years but now the trial is at the fag end since out of 11 cited witnesses, 7 have already been examined and 2 have been given up. She further submitted that otherwise also it is a case where the petitioner has been specifically named in the FIR and an information was received by the police and on the basis of the information, there had been recovery of huge quantity of 99 bottles of *Chlorpheniramine Maleate & Codeine Phosphate syrup* of 100 ml. each which falls in the category of commercial quantity, and therefore, the prayer of the petitioner is hit by the bar contained under Section 37 of the NDPS Act and there is no ground available with the petitioner for making a departure from the aforesaid bar. She further submitted that the mandatory provision of Section 50 of the NDPS Act was also complied with, and therefore, has opposed the grant of regular bail to the petitioner.

I have heard the learned counsel for the parties.

The custody of the petitioner is more than 2 years but out of the 11 cited witnesses, 7 have already been examined and 2 have been given up. The alleged recovery from the petitioner is undoubtedly high since it was 99 intoxicant bottles containing the salt of *Chlorpheniramine Maleate &*

Codeine Phosphate syrup of 100 ml. each as per the prosecution. 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.

Consequently, finding no merit in the present case and 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.

19.04.2023

Bhumika

(JASGURPREET SINGH PURI)
JUDGE

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