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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-3329-2023 (O&M)

Date of Decision: 29.03.2023

Jassa Singh

....Petitioner(s)

Versus

State of Punjab

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Ranbir Singh Sekhon, Advocate, for the petitioner.

Ms. Akshita Chauhan, DAG, Punjab.

JASGURPREET SINGH PURI, J. (Oral)

The present is second petition filed under Section 439 of the Code of Criminal Procedure for the grant of regular bail to the petitioner in FIR No. 113 dated 24.09.2022, under Section 22 of NDPS Act, registered at Police Station Lakho Ke Behram, District Ferozepur.

Learned counsel for the petitioner has submitted that the petitioner is in custody for about 6 months and the investigation of the case has been completed and thereafter the charges have been framed. He submitted that even as per the prosecution story, there was alleged recovery of 990 tablets of Tramadol from other co-accused namely Krishan and not from the petitioner and it was thereafter that the name of the petitioner was nominated on the basis of the disclosure statement of a co-accused. He submitted that the petitioner is not involved in any other case under the

NDPS Act. However, he is involved in one case under the Gambling Act and in one case under Sections 420, 406 and 120-B IPC and it was only because of this reason that the police has falsely implicated the present petitioner. He submitted that apart from the disclosure statement of a co-accused, there is no evidence to show that how the petitioner was linked with the present offence and has also referred to a judgment of Hon'ble Supreme Court in *Tofan Singh V/s. State of Tamil Nadu' [2021 (1) RCR (Criminal) 1]*. He submitted that in view of the aforesaid facts and circumstances, the petitioner may be considered for the grant of regular bail.

On the other hand, Ms. Akshita Chauhan, learned Deputy Advocate General, Punjab has submitted that it is correct that the petitioner is in custody for about 6 months and now charges have been framed and that the name of the petitioner was nominated on the basis of disclosure statement of a co-accused. She has however opposed the grant of bail to the petitioner on the ground that the recovery from the other co-accused was 990 tablets of Tramadol which falls in the category of commercial quantity under the NDPS Act.

I have heard the learned counsel for the parties.

The petitioner is in custody for about 6 months and as per the learned counsel for the parties, the investigation has been completed and now even the charges have been framed and also the petitioner is not involved in any other case under the NDPS Act. Even as per the prosecution, recovery was effected from the other co-accused and not from the petitioner and his name was nominated on the basis of the disclosure of a co-accused. On a query being raised to the learned State counsel during

the course of arguments as to whether there was any other evidence to show the link of the petitioner with the present offence except for the disclosure statement to which she submitted that as such there was no such link evidence available. Therefore this Court is of the view that the bar contained under Section 37 of the NDPS Act will not apply to the present petitioner.

In view of the aforesaid facts and circumstances, this Court deems it fit and proper to grant regular bail to the petitioner.

Consequently, the present petition is allowed. The petitioner shall be released on regular bail subject to furnishing bail bonds/surety to the satisfaction of the learned trial Court/Duty Magistrate concerned.

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.

29.03.2023

rakesh

Whether speaking
Whether reportable

(JASGURPREET SINGH PURI)
JUDGE

: Yes/No
: Yes/No