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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-6348-2022 (O&M)
Date of Decision: 22.11.2023

Jaswinder Singh @ Sarpanch

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Ms. Sunita Devi, Advocate for
Ms. Manpreet Ghuman, Advocate,
for the petitioner.

Mr. G.S. Sidhu, AAG, Punjab.

JASGURPREET SINGH PURI, J. (ORAL)

1. The present is a petition filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case bearing FIR No.21 dated 30.01.2019, under Sections 18, 25, 29, 61 and 85 of the NDPS Act, registered at Police Station Sadar Patiala, District Patiala.

2. It has been submitted by the learned counsel for the petitioner that the petitioner is in custody from 2 years and 25 days and the allegation is with regard to the recovery of 3 kgs. of *Opium* from the car of the petitioner in which he was travelling and 400 grams of *Opium* recovered thereafter on his disclosure. She submitted that in view of the custody of the petitioner, he may be considered for grant of regular bail.

3. On the other hand, Mr. G.S. Sidhu, AAG, Punjab, has however opposed the grant of regular bail to the petitioner on the ground that the

recovery from the petitioner falls in the category of commercial quantity under the NDPS Act, and therefore, the prayer of the petitioner is hit by the bar contained under Section 37 of the NDPS Act. He submitted that as per the custody certificate, the total custody of the petitioner is 2 years and 25 days and the trial is going at normal pace and now 3 out of 17 prosecution witnesses have been examined. He further submitted that the petitioner was previously convicted under the NDPS Act and in one other case, he was earlier declared as P.O. and submitted that he is a habitual offender and in case he is released on regular bail, then he may abscond or flee from justice or he may influence the remaining witnesses as well.

4. I have heard the learned counsels for the parties.

5. It is a case where the recovery from the petitioner is 3 kgs. and 400 grams of *Opium* and 3 witnesses out of 17 prosecution witnesses have already been examined and the custody of the petitioner is only 2 years and 25 days. The petitioner is stated to be a habitual offender. Since the alleged recovery from the petitioner falls in the category of commercial quantity under the NDPS Act, the bar contained under Section 37 of the NDPS Act would apply in the present case. However, the learned counsel for the petitioner has not been able to make out any ground for making a departure from the aforesaid bar, therefore, this Court does not deem it fit and proper to grant regular bail to the petitioner.

7. Consequently, finding no merit in the present petition, the same is, hereby, dismissed.

8. 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 the present petition.

22.11.2023
Bhumika

(JASGURPREET SINGH PURI)
JUDGE

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