

CRM-M-12461-2023

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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-12461-2023
Date of Decision: 04.08.2023

Beant Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. P.S. Sekhon, Advocate,
for the petitioner.

Mr. Sarabjit Singh Cheema, DAG, Punjab.

JASGURPREET SINGH PURI, J. (ORAL)

1. The present petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case bearing FIR No.31, dated 21.05.2022, under Sections 22 & 29 of the NDPS Act, 1985, registered at Police Station Jodhan, District Ludhiana Rural.
2. Learned counsel for the petitioner has submitted that the petitioner is in custody for one year and investigation of the case has already been completed and thereafter, charges have also been framed by the trial Court and one witness has already been examined. He further submitted that it is a case where the petitioner has been falsely implicated by the police and while referring to the prosecution story, he submitted that on a secret information, the police raided the house of the mother of the petitioner, namely, Jarnail Kaur from where there was an alleged recovery of 1800 tablets of *Alprazolam*, 0.5 mg. each, and 1800 tablets of *Tramadol*. He also submitted that the mother of the petitioner is also involved in some other

cases and she has earlier also been convicted under the NDPS Act but so far as the present petitioner is concerned, he is living separately from her mother and is not involved in any other case under the NDPS Act and he has his own family and lives separately from her mother, but the police also named the petitioner in the FIR by stating that the main accused, namely, Jarnail Kaur is indulging in trading of intoxicant substances along with the petitioner. He further submitted that similarly one more brother of the petitioner, namely, Amarjit Singh was also arrested in the present case and he fell into acute depression in the custody itself and committed suicide. He submitted that in view of the aforesaid circumstances, especially in view of the fact that no recovery was effected from the present petitioner, the bar contained under Section 37 of the NDPS Act will not apply to the present petitioner and therefore, has prayed that the petitioner may be considered for the grant of regular bail.

3. On the other hand, Mr. Sarabjit Singh Cheema, learned Deputy Advocate General, Punjab, has submitted that it is correct that the petitioner is in custody for 1 year and he is not a habitual offender and is not involved in any other case under the NDPS Act. He further submitted that there is no recovery effected from the petitioner but the recovery was effected from the co-accused, who is the mother of the petitioner, namely, Jarnail Kaur, which falls in the category of commercial quantity.

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

5. It is a case where the petitioner is stated to be in custody for one year and as per the learned counsel for the parties, no recovery was effected from the petitioner and he is stated to be not involved in any other case

under the NDPS Act. Considering the aforesaid facts and circumstances, whereby no recovery was effected from the petitioner, the bar contained under Section 37 of the NDPS Act will not be applicable to the present petitioner. Furthermore, it is neither the case of the State nor it has been argued by the learned State counsel that in case the petitioner is released on bail then he may abscond or flee from justice or may influence the witness or may tamper with the evidence.

6. 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 regular bail on furnishing bail bond/surety bond to the satisfaction of the trial Court/Duty Magistrate concerned, if not required in any other case.

7. 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.

04.08.2023

Bhumika

(JASGURPREET SINGH PURI)

JUDGE

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