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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-21470-2023
Date of decision: 23.11.2023

SURJIT SINGH

...Petitioner

VERSUS

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Neeraj Madaan, Advocate for the petitioner.

Mr. Gurdarshan Singh Sidhu, AAG, Punjab.

JASGURPREET SINGH PURI, J. (Oral)

1. The present petition has been filed under Section 439 of the Code of Criminal Procedure for the grant of regular bail to the petitioner in FIR No.254 dated 07.09.2022, under Sections 15, 29, 61, 85 of the NDPS Act, registered at Police Station City-1 Abohar, District Fazilka, Punjab.

2. Learned counsel for the petitioner submitted that the petitioner is in custody for more than 1 year and 2 months and the allegation against the petitioner is that he was apprehended while driving a canter from where there was a recovery of 92 kgs. of poppy husk. He further submitted that the charges in the present case were framed by the learned trial Court on 18.04.2023 but no prosecution witness has been examined till date and considering the fact that the petitioner is a first time offender and is in custody for more than 1 year and 2 months, he may be considered for the grant of regular bail.

3. On the other hand, Mr. Gurdarshan Singh Sidhu, AAG, Punjab submitted that there had been a recovery of 92 kgs. of poppy husk from the

canter which was being driven by the petitioner and the said poppy husk was brought from Rajasthan to be sold in the State of Punjab. He further submitted that rather the petitioner had purchased the aforesaid canter from another person although technically the aforesaid canter is not transferred in the name of the petitioner. He also submitted that 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 same especially in view of the fact that an offer was made under Section 50 of the NDPS Act in accordance with law.

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

5. The petitioner is in custody for more than 1 year and 2 months and the charges in the present case were framed on 18.04.2023 but no prosecution witness has been examined till date. The recovery from the petitioner is stated to be 92 kgs. of poppy husk, which is higher than the commercial quantity as defined under the NDPS Act. Learned counsel for the petitioner has not been able to make out any case for making a departure from the bar contained under Section 37 of the NDPS Act.

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

7. However, anything observed hereinabove shall not be treated as an expression of opinion on the merits of the case and is meant for the purpose of deciding the present petition only.

(JASGURPREET SINGH PURI)
JUDGE

23.11.2023
Chetan Thakur

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No