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**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

CRM-M-28311-2021

Date of Decision: 19.07.2023

Amit Sharma

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Dr. Deepak Jindal, Advocate,
for the petitioner.

Mr. Naveen Kumar Sheoran, DAG, Haryana.

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.53 dated 15.10.2020, under Sections 21 & 29 of the NDPS Act, 1985 and Section 18-C of the Drugs and Cosmetics Act, registered at Police Station Sector-9, Ambala.

2. It has been submitted by learned counsel for the petitioner that the petitioner is in custody for 2½ years. He further submitted that it is a case where the petitioner was falsely implicated in the present case on the basis of the disclosure statement made by the co-accused and the charges in the present case were framed on 28.10.2021 which is almost 1 year and 9 months ago and till date only one prosecution witness has been examined. He also submitted that because of the fault of the prosecution and not because of the fault of the petitioner, he has to face incarceration for more

than 2½ years. He further submitted that although the petitioner is involved in three more cases but he is already on regular bail in those cases.

3. Learned counsel for the petitioner further submitted that even otherwise also the alleged quantity recovered from the co-accused, namely, Amandeep Singh @ Billa, is 15 injections of *Buprenorphine* containing 2 ml. each and the total weight of the same is 9 mgs., which does not fall in the category of commercial quantity. He submitted that be that as it may, considering the fact that his name was nominated on the basis of the disclosure statement of the co-accused, which is *per se* not admissible in evidence and also considering the long custody of the petitioner, he may be considered for the grant of regular bail.

4. On the other hand, Mr. Naveen Kumar Sheoran, learned DAG, Haryana has stated that so far as the custody of the petitioner is concerned, it is correct that he is in custody from 2½ years and it is also correct that one witness has been examined despite the fact that the charges were framed on 28.10.2021, which is almost 1 year and 9 months ago. He has however opposed the grant of bail to the petitioner on the ground that he is involved in three more cases.

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

6. It is a case where the petitioner has faced incarceration for more 2½ years and his name was nominated on the basis of the disclosure statement of the co-accused and no recovery was effected from the petitioner, as per the learned counsel for the parties. The mere fact that the petitioner is involved in three more cases does not disentitle him for the grant of regular bail.

7. Therefore, this Court is of the view that considering the

aforesaid facts and circumstances whereby the petitioner's name was nominated on the basis of the disclosure statement of the co-accused and as per the learned counsel for the parties, no recovery was effected from the petitioner and also considering the long custody of the petitioner which is for more than 2½ years, this Court deems it fit and proper to grant regular bail to the petitioner, especially in the light of Article 21 of the Constitution of India.

8. 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.

9. 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.

19.07.2023

Bhumika

(JASGURPREET SINGH PURI)
JUDGE

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