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

CRM-M-28683-2022

Date of Decision: 21.02.2023

Jagjit Singh @ Titu

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. K.S. Dargan, Advocate for
Mr. Kuldip Singh, Advocate,
for the petitioner.

Ms. Lavanya Paul, DAG, Punjab.

JASGURPREET SINGH PURI, J. (ORAL)

This is the second petition filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in FIR No.92, dated 28.04.2018 under Section 22 (Notification No.61) of the NDPS Act, registered at Police Station Zira, District Ferozepur.

It has been submitted by learned counsel for the petitioner that the petitioner is in custody since 10.03.2021 which is more than 1 year and 11 months. He further submitted that one of the prosecution witnesses, who is the complainant, namely, ASI Jugraj Singh has already been examined-in-chief and also partly cross-examined. He also submitted that the allegations against the petitioner were regarding the recovery of 1200 tablets of *Alprazolam* Alpax-0.5 from him. He further submitted that the petitioner was earlier involved in one case under the NDPS Act but he has

been since acquitted in that case. He submitted that in view of the long custody of the petitioner, he may be considered for grant of regular bail.

On the other hand, Ms. Lavanya Paul, learned Deputy Advocate General, Punjab has submitted on instructions that it is correct that the petitioner is in custody for more than 1 year and 11 months but he is not entitled for grant of regular bail because of two reasons. Firstly, the recovery from the petitioner was 1200 tablets of *Alprazolam* Alpax-0.5 which falls in the category of commercial quantity, and therefore, the prayer of the petitioner is hit by the bar contained under Section 37 of the NDPS Act and secondly, due to the conduct of the petitioner, he is not entitled for grant of regular bail. She further submitted that earlier the petitioner was granted interim bail by the learned Special Judge on 05.06.2018 on the ground that the FSL report had not been received. Thereafter, on the receipt of the FSL report, the challan was presented before the Court on 18.09.2019 and the petitioner did not surrender before the Court and moved an application for grant of exemption from personal appearance but no exemption was granted and still he did not surrender, and therefore, his interim bail was cancelled by the learned Court on 04.12.2019 and thereafter, non-bailable warrants were issued against him and it was only after a long period of time i.e. on 10.03.2021, he surrendered before the Court. She also submitted that in case now the petitioner is released on bail then there is likelihood that he may again abscond, and therefore, prays for dismissal of the present petition.

I have heard the learned counsel for the parties.

Although, the petitioner is in custody for more than 1 year and 11 months, but earlier he did not surrender before the Court after the receipt

of the FSL report by the police and as per the learned State counsel, he moved an application for grant of exemption but still he did not surrender and rather interim bail was cancelled on 04.12.2019, and thereafter, on 10.03.2021, he had surrendered before the Court. The apprehension expressed by the learned State counsel cannot be ignored to the effect that in case the petitioner is granted bail then he may again abscond or flee from justice. So far as the applicability of Section 37 of the NDPS Act is concerned, since the aforesaid confiscated quantity falls in the category of commercial quantity, the learned counsel for the petitioner has not been able to make out any case for making a departure from the aforesaid bar.

In view of the aforesaid position, no ground is made out to grant regular bail to the petitioner. Consequently, the present petition is hereby dismissed.

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.

21.02.2023*Bhumika***(JASGURPREET SINGH PURI)
JUDGE**

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