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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**CRM-M No.30395 of 2023 (O&M)****Date of Decision: 23.08.2023**

Gurpreet @ Gopi

..... Petitioner

V/s.

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Jashandeep Singh Sandhu, Advocate
for the petitioner.

Mr. Sarabjit Singh Cheema, DAG, Punjab.

JASGURPREET SINGH PURI, J (Oral)

1. The present is the first petition filed under Section 439 of the Code of Criminal Procedure, for grant of regular bail to the petitioner in FIR No.37 dated 15.03.2023, under Section 21(b) of the Narcotics Drugs and Psychotropic Substances (NDPS) Act, 1985 (Section 27 of the NDPS Act added later on) registered at Police Station SGN Dev Thermal Plant, District Bathinda.

2. Learned counsel for the petitioner has submitted that the petitioner is in custody from 15.03.2023 i.e. 05 months and 09 days and the investigation is complete. He further submitted that as per the allegations, there was recovery of 30 grams of *heroin* from the petitioner and the other co-accused which does not fall in the category of commercial quantity and is not hit by the bar contained under Section 37 of the NDPS Act and therefore, the petitioner may be considered for the grant of regular bail.

3. On the other hand, Mr. Sarabjit Singh Cheema, Deputy Advocate General, Punjab has filed custody certificate in Court today and while referring to

the same, he submitted that the petitioner is in custody for 05 months and 09 days and the petitioner is involved in number of other cases. He further submitted that the petitioner has already been convicted in 02 cases under the NDPS Act and in 03 cases, he is under-trial and those cases also pertain to NDPS Act. He further submitted that the menace of heroin smuggling and consumption is on the rise and the petitioner does not deserve the concession of regular bail in the present case. The State has apprehension that in case the petitioner is released on bail then he may repeat the offence and he may in turn affect the lives of people and therefore in the interest of Society and the State, the petitioner should not be released on bail even if the quantity of contraband involved is of non commercial in nature.

4. I have heard learned counsel for the parties.

5. The petitioner is in custody for 05 months and 09 days. Although the investigation of the case has been completed and the confiscated quantity is only 30 grams of heroin which does not fall in the category of commercial quantity but the submissions which have been made by the learned counsel for the State cannot be ignored. The menace of drugs especially nowadays is very large and it affects the lives of a large number of people. The petitioner was a previous convict and he was earlier convicted twice under the NDPS Act and there are 03 more cases under the NDPS Act registered against the petitioner whereby he is facing trial. The apprehension which has been expressed by the learned Deputy Advocate General, Punjab that in case the petitioner is released on bail, he may repeat the offence or may abscond from justice, cannot be ignored.

6. In view of the abovesaid facts and circumstances of the case, this Court is of the considered view that the petitioner does not deserve the concession of regular bail.

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

23rd August, 2023

Sonia Puri

(JASGUPREET SINGH PURI)
JUDGE

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