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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-31614-2023
Date of Decision: 03.10.2023

Rajender Singh

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

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

Mr. Vishal Kashyap, DAG, Haryana.

JASGURPREET SINGH PURI, J. (ORAL)

1. The present is a sixth petition filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case bearing FIR No.106 dated 15.04.2020, under Sections 22-C & 29 of the NDPS Act, registered at Police Station Civil Lines Kaithal, District Kaithal.
2. Learned counsel for the petitioner submitted that this is 6th bail petition and submitted that vide Annexure P-7, this Court had directed the trial Court to expedite the trial considering the custody of the petitioner, who was in custody for 2 years and 7 months at that point of time and 6 witnesses were examined. He further submitted now the total custody of the petitioner is about 3 years and 9 witnesses have now been examined by the prosecution. He also submitted that considering the custody of petitioner, he may be considered for grant of regular bail.

3. On the other hand, Mr. Vishal Kashyap, learned DAG, Haryana, has submitted that the alleged recovery from the petitioner in the present case is very high i.e. 12000 tablets of *Alprazolam* which falls in the category of commercial quantity under the NDPS Act, and therefore, 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 aforesaid bar, therefore, he does not deserve the concession of regular bail. Learned State counsel also brought to the notice of this Court that the petitioner is a habitual offender and is involved in two more cases under the NDPS Act, but at the same time learned counsel for the petitioner submitted that he has been acquitted in one of the cases.

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

5. This Court on 04.09.2023 had requisitioned the report from the trial Court with regard to the stage of the case and the report has been received from the trial Court giving the different dates when the matter was adjourned and the witnesses were examined. One of the reasons for non-examination of witnesses was that one of the co-accused had filed application for exemption of appearance for more than once and as per the report 9 prosecution witnesses are pending to be examined and it is also stated in the report that it will take some more time to conclude the trial.

6. Although the custody of the petitioner is about 3 years but he is a habitual offender and is involved in two more cases under the NDPS Act and as per the learned counsel for the petitioner, he has been acquitted in one of the cases. The alleged recovery from the petitioner in the present case is very high i.e. 12000 tablets of *Alprazolam* which falls in the category of

commercial quantity under the NDPS Act and no ground has been made out by the learned counsel for the petitioner for making a departure from the bar contained under Section 37 of the NDPS Act. Therefore, this Court does not deem it fit and proper to grant regular bail to the petitioner.

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

8. However, considering the custody of the petitioner and considering the earlier directions issued to the trial Court to expedite the trial, this Court, therefore, would request the trial Court to further expedite the trial and to make all efforts to conclude the same within a period of six months.

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.

03.10.2023

Bhumika

(JASGURPREET SINGH PURI)
JUDGE

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