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

**CRM-M-35055-2022
Date of Decision: 19.04.2023**

Sandeep Gupta

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Sandeep Singh, Advocate,
for the petitioner.

Ms. Nidhi Garg, AAG, Haryana.

JASGURPREET SINGH PURI, J. (ORAL)

This is the third petition filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in FIR No.211, dated 15.09.2020 under Section 21/22/29 and 61 of the NDPS Act, registered at Police Station Chhappar, District Yamuna Nagar.

It has been submitted by learned counsel for the petitioner that the petitioner is in custody since 15.09.2020 and he was earlier granted interim bail by this Court in view of the fact that at that point of time, the FSL report was not received and thereafter, on the receipt of the aforesaid report, the petitioner surrendered before the Jail Authorities. He further submitted that the allegation against the petitioner was that he was owner of the car which he was driving in which the another co-accused, namely, Akshay Kumar was also present and the police party had a secret

information on the basis of which both of them were apprehended and there was an alleged recovery of 1000 injections of *Tramadol HCL* consisting 2 ml. each and 1975 injections of *Buprenorphine* consisting of 0.3 mg. He further submitted that on 24.03.2021, the charges were framed and 4 witnesses have been examined and in view of the custody of the petitioner, he may be considered for grant of regular bail.

On the other hand, Ms. Nidhi Garg, learned Assistant Advocate General, Haryana submitted that so far as the custody period of the petitioner is concerned, the same is correct but she has opposed the grant of regular bail to the petitioner on the ground that there had been a huge recovery from the petitioner and the co-accused 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 same. She further submitted that even otherwise also, 4 out of 17 witnesses have already been examined and it cannot be said that there will be a delay in trial and therefore, the petitioner is not entitled for the grant of regular bail.

I have heard the learned counsel for the parties.

The petitioner is in custody from 15.09.2020 and thereafter, he was granted interim bail and he surrendered before the Jail Authorities well in time. The alleged recovery from the petitioner and the co-accused is very large and also falls in the category of commercial quantity under the NDPS Act. Out of total 17 cited witnesses, 4 prosecution witnesses have been examined till date. The learned counsel for the petitioner has not been able

to make out any ground for making a departure from the bar contained under Section 37 of the NDPS Act.

Consequently, finding no merit in the present case and the same 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.

19.04.2023

Bhumika

**(JASGURPREET SINGH PURI)
JUDGE**

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