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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-39783-2022 (O&M)
Date of Decision: 06.12.2023

Vijay Kumar @ Vicky

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Prateek Sodhi, Advocate,
for the petitioner.

Mr. G.S. Sidhu, AAG, Punjab.

JASGURPREET SINGH PURI, J. (ORAL)

1. The present is a petition filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case bearing FIR No.70 dated 15.06.2020, under Sections 21, 27-A and 29 of the NDPS Act and Section 42 of Prisoner Act, 1894 registered at Police Station Special Task Force, District STF Wing Mohali.

2. Learned counsel for the petitioner submitted that the petitioner is in custody for more than 1½ years and the charges in the present case were framed on 15.07.2023, but no prosecution witness has been examined till date. He further submitted that the allegations against the petitioner in the present FIR are that he was already in custody in some other cases under the NDPS Act and he was allegedly in touch with the other co-accused, namely, Nona @ Noni through mobile phone and on his instructions, the *Heroin*

trade was being carried on and there had been a recovery of 277 grams of *Heroin* from the house of the petitioner. He also submitted that the allegations against the petitioner are false since he could not have arranged any type of trading while he was already in jail. He further submitted that one co-accused, namely, Roopa, who has also been arraigned as an accused, is not the wife of the petitioner.

3. On the other hand, Mr. G.S. Sidhu, AAG, Punjab, while referring to the affidavit filed by the State has stated that so far as the custody of the petitioner is concerned, the same is correct. He further submitted that the petitioner was using a mobile phone inside the jail through which the trading of *Heroin* was being carried out by him and he is involved in two more cases out of which in one case, he has been convicted which was under the NDPS Act. He also submitted that after the detection of mobile phone, two employees of the jail including the Jail Warden and Constable Kuldeep Singh have also been arraigned as an accused in the present case and therefore, the learned State Counsel has strongly opposed the grant of regular bail to the petitioner.

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

5. The allegations against the petitioner are with regard to the fact that while in jail in some other cases, he has been doing the trade of *Heroin* and there has been a recovery of 277 grams of *Heroin* from the house of the petitioner. A mobile phone was recovered from the petitioner and two employees of the jail have also been arraigned as an accused in the present case as per the learned State Counsel. The petitioner is stated to be a previous convict under the NDPS Act. The charges have been framed on

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15.07.2023 only and no prosecution witness has been examined till date. The recovery falls in the category of commercial quantity. Considering the gravity of the offence involved, this Court does not deem it fit and proper to grant regular bail to the petitioner.

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

7. 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.

06.12.2023

(JASGURPREET SINGH PURI)

*Bhumika***JUDGE**

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