

207

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-388-2022
Date of decision: 28.08.2023

PATTRICK ANIYASOR @ PAIRTHIK

...Petitioner

VERSUS

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Tarun Singhal, Advocate
for the petitioner.

Mr. Sarabjit Singh Cheema, DAG, Punjab.

JASGURPREET SINGH PURI, J. (Oral)

1. The present petition has been filed under Section 439 of the Code of Criminal Procedure for the grant of regular bail to the petitioner in FIR No. 207 dated 16.08.2021, under Sections 21(b), 21(c) and 29 of the NDPS Act, registered at Police Station City Tarn Taran, District Tarn Taran, Punjab.
2. Learned counsel for the petitioner has submitted that the petitioner is in custody from 19.08.2021, which is more than two years and the trial is not commencing at a fast pace. He further submitted that the petitioner is a foreign national and he was not named in the FIR and it was on the basis of disclosure statement of the other co-accused that his name was nominated and he is not involved in any other case and therefore considering the custody of the petitioner, he may be considered for grant of regular bail.

3. On the other hand, Mr. Sarabjit Singh Cheema, DAG, Punjab has submitted that although the name of the petitioner had surfaced on the basis of disclosure statement of the co-accused but once he was arrested then on his own disclosure there has been a recovery of 410 grams of *heroin*, which is admissible in evidence under Section 27 of the Evidence Act. He further submitted that the quantity of *heroin* confiscated on the disclosure of petitioner falls in the category of commercial quantity as per the NDPS Act and therefore the prayer of the petitioner is hit by the bar contained under Section 37 of the NDPS Act and the petitioner has not been able to make out departure from the aforesaid bar. He further submitted that even otherwise also now 7 prosecution witnesses have been examined and only 4 are remaining and the trial of the case is likely to conclude shortly and therefore the present bail petition may be dismissed.

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

5. The petitioner is in custody from 19.08.2021, which is more than 2 years. Since the trial was not commencing because one of the co-accused was absconding, this Court on 05.05.2023 had directed the trial Court to segregate the proceedings with regard to other co-accused, who was absconding and thereafter to commence the trial by giving short adjournments and also to submit fresh status report. Status report has been received from the learned Judge Special Court, Tarn Taran dated 25.08.2023, wherein learned Judge Special Court, Tarn Taran has stated that after the framing of charges, 7 prosecution witnesses have been examined and the learned Additional Public Prosecutor has given up 4 witnesses being unnecessary and now only 4

witnesses remain to be examined and the trial is likely to conclude very soon as short adjournments are being given.

6. In view of the aforesaid status report received from the learned Judge Special Court, Tarn Taran and the fact that 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, this Court does not deem it fit and proper to grant regular bail to the petitioner.

7. Consequently, the present petition is dismissed.

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

28.08.2023
Chetan Thakur

(JASGURPREET SINGH PURI)
JUDGE

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