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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-54600-2022 (O&M)

Date of Decision: 02.08.2023

Kulwinder Singh @ Billa

....Petitioner(s)

Versus

State of Punjab

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Prince Sharma, Advocate, for the petitioner.

Mr. Harsimar Singh Sitta, 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. 155 dated 23.09.2022, under Sections 22/61/85 of NDPS Act, registered at Police Station Jabhal, District Tarn Taran.

2. Learned counsel for the petitioner has submitted that the petitioner is in custody from 23.09.2022 which is about 10 months. He submitted that although there had been alleged recovery of 292 grams of Tramadol and 11 grams of Alprazolam and the total falls in the category of commercial quantity under the NDPS Act but considering the custody of the petitioner, he may be considered for the grant of regular bail.

3. On the other hand, Mr. Harsimar Singh Sitta, DAG, Punjab has submitted on instructions from ASI Karanjit Singh that it is correct that the petitioner is in custody for about 10 months. He further submitted that the

petitioner is a habitual offender and is involved in 4 more cases under the NDPS Act out of which he has been convicted in one case under the NDPS Act and 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 and therefore, the petitioner does not deserve the concession of regular bail.

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

5. The petitioner is in custody for about 10 months. Learned counsel for the petitioner has stated that considering the custody of the petitioner, he may be considered for the grant of regular bail. However, this Court is of the view that the custody of 10 months cannot become a ground for grant of regular bail only on this ground particularly in view of the fact that in the facts and circumstances of the present case the petitioner is stated to be a habitual offender and is involved in 4 more cases under the NDPS Act out of which he has since been convicted in one case. Even otherwise also learned counsel for the petitioner has not been able to make out any ground for a departure from the bar contained under Section 37 of the NDPS Act.

6. Consequently, the present petition is dismissed.

7. 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.

02.08.2023

rakesh

(JASGURPREET SINGH PURI)

JUDGE

Whether speaking : Yes/No

Whether reportable : Yes/No