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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-56714-2022(O&M)

Date of Decision:09.10.2023

Gurdeep Singh @ Gori

....Petitioner(s)

Versus

State of Punjab

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

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

Mr. Gurdarshan Singh Sidhu, AAG, Punjab.

JASGURPREET SINGH PURI, J. (Oral)

1. The present petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in FIR No.88 dated 18.05.2021, under Section 22(b) of the NDPS Act and Section 61 of the Punjab Excise Act, registered at Police Station Sadar Faridkot, District Faridkot.

2. Learned counsel for the petitioner has submitted that the petitioner is in custody from 31.08.2021 which is more than 2 years and 1 month and it is a case where the petitioner has been implicated on the basis of enmity with the Excise Department officers because earlier also in one case the petitioner was involved wherein he was although convicted but the enmity still remained. He submitted that the petitioner was not apprehended from the spot and as per the allegations, he had fled away from the house from where the alleged recovery was made. He submitted that the petitioner has already faced incarceration for more than 2 years and 1 month and therefore, he may be considered for the

grant of regular bail.

3. On the other hand, Mr. Gurdarshan Singh Sidhu, AAG, Punjab has submitted that although the petitioner is in custody for more than 2 years and 1 month but now the trial of the case is progressing fast and 4 out of 23 witnesses have been examined including the Excise Officer. He further submitted that the petitioner is also involved in one more case under the Excise Act and he also stands convicted in that case and in the present case the house of the petitioner which belongs to the petitioner was raided on the basis of the information given by the Excise Department and there had been recovery of 850 tablets of Tramadol which falls in the category of commercial quantity under the NDPS Act and apart from the above, 5 bottles of illegal country made liquor and 150 liter of Lahan were also recovered from the house of the petitioner. He has however opposed the grant of regular bail to the petitioner on the ground that the recovered quantity from the petitioner falls in the category of commercial quantity and therefore, the prayer of the petitioner is hit by the bar contained under Section 37 of the NDPS Act.

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

5. It is a case where the petitioner has faced incarceration for about 2 years and 1 month and now 4 out of 23 witnesses including the Officer of the Excise Department has already been examined as per the learned State counsel. The petitioner is stated to be earlier convicted in one case under the Excise Act and the allegations in the present case were also pertaining to Excise Act as well wherein there has been alleged recovery of 5 bottles of illegal country made liquor and 150 liter of Lahan from the house of the petitioner. Apart from the above, there had been alleged recovery of 850 tablets of Tramadol

which falls in the category of commercial quantity under the NDPS Act but 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.

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.

09.10.2023

rakesh

Whether speaking

Whether reportable

(JASGURPREET SINGH PURI)

JUDGE

: Yes/No

: Yes/No