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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-56019-2023 (O&M)
Decided on: 12.12.2023

Lalit Grover

.... Petitioner

Versus

Union of India

..... Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Anand Chhibbar, Senior Advocate assisted by
Ms. Khyati, Advocate,
for the petitioner.

Ms. Gurmeet Kaur Gill, Senior Standing Counsel,
for the respondent-UI.

JASGURPREET SINGH PURI, J. (ORAL)

1. The present is a second petition filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case bearing NCB Crime No.4, dated 11.01.2022, under Sections 8, 20, 29 and 60 of the NDPS Act, registered at Police Station Narcotic Control Bureau, Chandigarh.

2. Reply by way of an affidavit of Intelligence Officer, NCB, Chandigarh has been filed on behalf of the respondent/Union of India in Court today and the same is taken on record.

3. Learned Senior Counsel for the petitioner submitted that it is a case where the petitioner is in custody from 11.01.2022 which is 1 year and

11 months and till date only 2 out of 13 prosecution witnesses have been examined. He further submitted that it is a case where as per the allegations, the Police had intercepted a car from where there have been a recovery of 1.87 kgs. of *Charas* which is higher than the commercial quantity of 1 kg. as defined under the NDPS Act. He also submitted that two persons were travelling in the car i.e. one Asha Devi and her son, namely, Lokesh. He further submitted that the aforesaid Asha Devi has since been granted regular bail by this Court vide Annexure P-5 primarily on the ground that the aforesaid *Charas* was found from the panels of the doors and the aforesaid Asha Devi being mother of the aforesaid Lokesh was granted regular bail by this Court. He also submitted that so far as the present petitioner is concerned, he was not even in the car and the allegations against him was that he was to purchase the part of the aforesaid contraband. He further submitted that the entire prosecution story is based upon suspicion and the petitioner is not involved in any other case and is having clean antecedents and merely on the basis of the false information, the petitioner has been implicated in the present case with the result that he had to face incarceration for 1 year and 11 months. He also submitted that the bar contained under Section 37 of the NDPS Act will not apply to the present petitioner in view of the fact that no recovery has been effected from the petitioner and he is having clean antecedents.

4. On the other hand, Ms. Gurmeet Kaur Gill, learned Senior Standing Counsel appearing on behalf of the respondent-UOI has submitted that it is correct that the petitioner is in custody for 1 year and 11 months and

he was not travelling in the car from where 1.87 kgs. of *Charas* was confiscated. She further submitted that the police had information with regard to the petitioner that he had link with the aforesaid Lokesh and regarding which the details of telephonic conversation is also mentioned in the affidavit and in view of the aforesaid telephonic conversation, link evidence can be established. She also stated that in the present case there was a huge recovery of contraband of *Charas* from 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.

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

6. The petitioner is stated to be in custody from 11.01.2022 which is 1 year and 11 months. One of the co-accused, namely, Asha Devi, who was travelling in the car from where the confiscation had taken place, has already been extended the benefit of regular bail by this Court vide Annexure P-5. As per both the learned counsels for the parties, the petitioner has clean antecedents and is not involved in any other case whatsoever. The allegation against the petitioner is that allegedly he was to purchase the part of the aforesaid contraband from the co-accused, namely, Lokesh. Since no recovery has been effected from the present petitioner and he is having clean antecedents, this Court is of the view that the bar contained under Section 37 of the NDPS Act will not apply to the present petitioner.

7. Therefore, considering the aforesaid facts and circumstances of the present case, this Court deems it fit and proper to grant regular bail to the

petitioner. Consequently, the present petition is allowed and the petitioner is ordered to be released on regular bail on furnishing bail bond/surety bond to the satisfaction of the trial Court/Duty Magistrate concerned, if not required in any other case.

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

12.12.2023
Bhumika

(JASGURPREET SINGH PURI)
JUDGE

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