

CRM-M-56645-2023

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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-56645-2023
Date of Decision: 16.11.2023

Ankit Sihag @ GoraPetitioner

Versus

State of Punjab and anotherRespondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Ms. Shifa Kler, Advocate
for the petitioner.

Mr. G.S. 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 case bearing FIR No.183 dated 14.11.2022 registered under Sections 22(c)/61/85 of NDPS Act at Police Station City I, Mansa.
2. Learned counsel for the petitioner submitted that the petitioner is in custody since 14.11.2022 which comes to be one year and two days and there has been an alleged recovery of 4 kgs. and 928 grams of *Codeine Phosphate* from the petitioner which although falls in the category of commercial quantity but the petitioner is entitled for grant of regular bail on merits. She further submitted that there has been a violation of Section 50 of the NDPS Act and the petitioner was falsely implicated in the present case. She also submitted that the trial of the case may take long time and every

person is presumed to be innocent unless proved guilty. She further submitted that the trial of the case is going at a slow pace, and therefore, on that ground also, the petitioner may be considered for grant of regular bail.

3. On the other hand, Mr. G.S. Sidhu, learned AAG, Punjab has stated on instructions that so far as the custody of the petitioner is concerned, the same is correct, but it is not correct that the trial of the case is going at a slow pace. He further submitted on instructions that now 8 out of 11 prosecution witnesses have been examined and the trial is at the fag end. He also submitted that the provisions of the Section 50 of the NDPS Act were duly complied with in accordance with law, and therefore, that is not a ground for grant of regular bail to the petitioner at all. He further submitted that there has been a recovery from the petitioner which 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. He also submitted that the petitioner is a habitual offender and is involved in two more cases including one case is under the NDPS Act and another case is under Section 379 IPC, which are pending against him.

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

5. It is a case where the petitioner is in custody for about 1 year but the alleged recovery from the petitioner falls in the category of commercial quantity as aforesaid. So far as the stage of the trial is concerned, as per the learned State counsel, out of 11 prosecution witnesses, eight witnesses have already been examined. The arguments raised by the learned counsel for the petitioner that Section 50 of the NDPS Act has not been complied with, cannot be accepted at this stage in view of the fact that

as per the FIR which has been attached with the present petition due offer was given to the petitioner to be searched before a Gazetted Officer or a Magistrate and no ground is made out that there was a violation of Section 50 of the NDPS Act. The petitioner is stated to be a habitual offender and is involved in two more cases as aforesaid. The 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.

6. In view of aforesaid facts and circumstances of the case, this Court does not deem it fit and proper to grant regular bail to the petitioner. Consequently, finding no merit in the present petition and 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.

16.11.2023.

Bhumika

(JASGURPREET SINGH PURI)
JUDGE

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