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**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**CRM-M-58872-2022
Date of Decision: 18.08.2023**

Shankar Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Vikas Deep Singh, Advocate,
for the petitioner

Mr. Sarabjit Singh Cheema, DAG, Punjab.

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 FIR No.144 dated 29.10.2020, under Sections 21, 27-A & 29 of the NDPS Act (Sections 21-C, 25, 27 of the NDPS Act added later on), registered at Police Station STF, Phase-IV, Mohali, District SAS Nagar (Area P.S. Sahnewal, Ludhiana).

2. Learned counsel for the petitioner has submitted that the petitioner is in custody for 1 year and 10 months. He further submitted that the petitioner in the present case was in fact already in custody in some other case in FIR No.7 dated 31.01.2020 under Sections 307, 326, 341, 323, 324, 148, 149 IPC registered at Police Station Fathu Dyinga, District Kapurthala and while he was in custody the name of the petitioner was

nominated in the present case on the basis of the disclosure statement made by the co-accused, namely, Harminder Singh. He further submitted that although there was a huge recovery from the other co-accused to the extent of 31 kgs. and 418 grams of *Heroin* plus 6 kgs. of *ICE (Amphetamin)* and 2 kgs. of other chemical but so far as the present petitioner is concerned, he was already in custody in other case, therefore, there was no occasion for the petitioner to have committed the present offence and therefore, he may be considered for the grant of regular bail.

3. On the other hand, Mr. Sarabjit Singh Cheema, learned DAG, Punjab on instructions has submitted that although the petitioner was in custody in some other case but it is a case where the petitioner was also a part of the entire syndicate who used to do smuggling of *Heroin* and other narcotic substances. While referring to the detailed affidavit filed by the DSP, Special Task Force, Ludhiana Range, Ludhiana, he submitted that so far as the present petitioner is concerned, during the investigation it was found that the other co-accused, namely, Manjeet Singh and Harminder Singh from whom there was a huge recovery as aforesaid, they had made their respective confessional statements under Section 27 of the Evidence Act that at the time when the present petitioner was confined in Central Jail, Kapurthala with the aforesaid co-accused, namely, Manjit Singh, he had kept a mobile phone in jail and from the said mobile phone the petitioner made phone call to the co-accused, namely, Harminder Singh, who was in Thailand at that point of time and Harminder Singh had sent location from his mobile phone to the petitioner and thereafter, the petitioner had sent the same location to his brother and from that location, *Heroin* of 3 kgs. was

picked by the petitioner's brother. He also submitted that for keeping the said mobile phone in jail, a separate FIR No.158 dated 04.06.2021, under Section 52-A of the Prison Act, registered at Police Station Kotwali, District Kapurthala was also registered against the present petitioner and thereafter, the petitioner was nominated in the present case. He further submitted that the petitioner while in jail had co-ordinated with the other co-accused, namely, Manjeet Singh and Harminder Singh from whom, there had been a huge recovery as aforesaid and for keeping mobile phone in jail, rather an FIR was registered against him and as per his instructions, he has already undergone the sentence in the aforesaid FIR. He submitted that so far as the present petitioner is concerned, the allegations against him are rather more serious since he used to co-ordinate while staying in jail itself and has vehemently opposed the grant of regular bail to the petitioner.

4. However, learned counsel for the petitioner has submitted that with regard to the mobile phone there is no report of the FSL on the record.

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

6. After hearing the learned counsel for the parties, so far as the present petitioner is concerned, this Court is of the view that the total custody of the petitioner is only 1 year and 10 months. The allegations against the petitioner are also very serious. So far as the present petitioner is concerned and the affidavit filed by the State, he was co-ordinating with the other co-accused for smuggling of drugs. Although there was no recovery effected from the present petitioner but there was a huge recovery from the other co-accused to the extent of 31 kgs. and 418 grams of *Heroin* plus 6 kgs. of *ICE (Amphetamin)* and 2 kgs. of other chemical. Therefore, this

Court is of the view that considering the gravity and magnitude of the offence, the petitioner does not deserve the concession of regular bail.

7. Consequently, the present petition is, hereby, dismissed.
8. 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.

18.08.2023

(JASGURPREET SINGH PURI)
JUDGE

Bhumika

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