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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-59117-2022
Date of Decision: 19.04.2023

Pargat Singh Petitioner

Versus

State of Punjab Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Dilraj Singh Bhinder, Advocate for
Mr. S.S. Bhinder, Advocate,
for the petitioner.

Ms. Akshita Chauhan, DAG, Punjab.

JASGURPREET SINGH PURI, J. (ORAL)

This is the second petition filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in FIR No.42 dated 04.04.2012 under Section 21 of the NDPS Act and Sections 25/54/59 of the Arms Act, registered at Police Station Division No.2, District Jalandhar.

2. It has been submitted by learned counsel for the petitioner that the petitioner is in custody from 1 year and 5 months and he was falsely implicated in the present case. He further submitted that it is a case where the police received an information pertaining to the petitioner and the other co-accused and although the name of the petitioner has been mentioned in the FIR but he was not arrested at the spot and even as per the prosecution, he was only sitting in the car and on seeing the police party, he ran away and thereafter, when the matter was investigated by the police he was found

to be innocent. Thereafter, on the basis of application filed by the prosecution under Section 319 of the Cr.P.C., he was summoned as an additional accused and thereafter, he had been facing trial. He also submitted that although the petitioner is also involved in two more FIRs under the NDPS Act but so far as the present case is concerned, he has been falsely implicated and therefore, he may be considered for grant of regular bail.

3. On the other hand, Ms. Akshita Chauhan, learned Deputy Advocate General, Punjab submitted that so far as the custody of the petitioner is concerned, the same is correct but the petitioner does not deserve the concession of bail in view of the fact that it is a case where the petitioner along with other co-accused were carrying *Heroin* and the police got information that the *Heroin* is being smuggled across the border and on the basis of information, the police raided the place and the car but the petitioner who was holding the packet at the time when he was sitting in the car ran away and the other co-accused were arrested along with 1940 grams of *Heroin*. She also submitted that the confiscated quantity 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 and there is no ground available with the petitioner for making a departure from the same. She further submitted that apart from the above, when the petitioner was summoned as an additional accused under Section 319 of the Cr.P.C. in the year 2016, he absconded and thereafter, he was declared as P.O. and remained as P.O. in the present case for a period of 6 years and ultimately he was arrested in December, 2021, and therefore, in

view of the conduct of the present petitioner as well, he does not deserve the concession of regular bail. She further submitted that although the custody certificate of the petitioner which has been produced today, there are two more FIRs against the petitioner pertaining to the NDPS Act but as per the instructions from ASI Kuldeep Singh, who is present in Court today, she submitted that the petitioner is involved in 7 more cases under the NDPS Act and in the present case, the petitioner was the king pin, who was carrying the *Heroin* but on seeing the police party ran away and thereafter, declared as P.O.

- 4. I have heard the learned counsel for the parties.
- 5. Although the petitioner is stated to be in custody from 1 year and 5 months but considering the severity and gravity of the allegations against the petitioner and also the bar contained under Section 37 of the NDPS Act regarding which the learned counsel for the petitioner has not been able to make out any ground for making a departure from the same, this Court does not deem it fit and proper to grant regular bail to the petitioner.
- 6. Consequently, finding no merit in the present case 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.

19.04.2023

Bhumika

(JASGURPREET SINGH PURI)
JUDGE

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