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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-57935-2023 (O&M)

Date of Decision: 22.11.2023

Sonu Shah

....Petitioner(s)

Versus

State of Punjab

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Amandeep Singh, 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. 31 dated 25.02.2022, under Sections 18, 29 and 27A of NDPS Act, registered at Police Station Sadar Khanna, Police District Khanna, District Ludhiana.

2. Learned counsel appearing on behalf of the petitioner submitted that the petitioner is in custody from 25.02.2022 which is about 1 year and 9 months. He further submitted that the other co-accused namely, Shiv Kumar Gupta who was also in the car from where the recovery was effected has been granted regular bail by a Co-ordinate Bench of this Court vide Annexure P-2 on the ground of long custody. He submitted that the petitioner is at parity with the aforesaid co-accused who has been granted

bail by a Co-ordinate Bench of this Court. He further submitted that the petitioner is not involved in any other case and has clean antecedents 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 so far as the present petitioner is concerned, he was sitting on the rear seat alongwith the other co-accused namely, Rinki and there was an alleged recovery of 4 kgs. of Opium from the rear seat and so far as the aforesaid co-accused namely, Shiv Kumar Gupta who has been granted bail by a Co-ordinate Bench of this Court vide Annexure P-2 is concerned, he was driving the car and, therefore, cannot be said to be at parity with the aforesaid co-accused. He also submitted that so far as the criminal antecedents of the petitioner are concerned, he is not involved in any other case.

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

5. The petitioner is in custody for 1 year and 9 months and he is claiming parity with the other co-accused namely, Shiv Kumar Gupta, who has been extended the benefit of regular bail by a Co-ordinate Bench of this Court vide Annexure P-2. A perusal of the aforesaid order Annexure P-2 would show that the aforesaid co-accused has been granted bail on the ground of long custody while referring to the various judgments of the Hon'ble Supreme Court. The custody of the petitioner and the aforesaid co-accused is same and, therefore, it cannot be said that the petitioner is not at parity with the aforesaid co-accused. The petitioner is stated to be not involved in any other case and is having no criminal antecedents. Therefore, this Court is of the view that purely on the ground of parity the petitioner also deserves the concession of regular bail.

6. Consequently, the present petition is allowed. The petitioner shall be released on regular bail, if not required in any other case, subject to furnishing bail bonds/surety bonds to the satisfaction of the learned trial Court/Duty Magistrate concerned.
8. However, anything observed hereinabove shall not be treated as an expression of opinion on the merits of the case and is meant for the purpose of deciding the present petition only.

22.11.2023

rakesh

Whether speaking : Yes/No

Whether reportable : Yes/No

(JASGURPREET SINGH PURI)

JUDGE