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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-1432-2024(O&M)
Date of Decision: 30.04.2024

Ramesh Kumar

....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. L.S. Sekhon, Advocate, for the petitioner.

Mr. Adeshwar Singh Pannu, AAG, Punjab.

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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 FIR No.89 dated 05.07.2022, under Section 22C of NDPS Act, registered at Police Station Raman, District Bathinda.

2. Learned counsel for the petitioner has submitted that the petitioner is in custody for 1 year and 9 months and as per allegations, there had been a recovery of 1200 tablets of Alprazolam and 9 vials of Onerex from him. He further submitted that the petitioner has been falsely implicated in the present case only because of the reason that he was earlier involved in two more cases under the NDPS Act out of which he stands acquitted in one case and in other case, he was convicted for only 30 days which he has already undergone. He also while referring to the FIR submitted that a bare reading of the FIR would show that it was a stereotype

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FIR and such kind of language is used in hundreds of FIRs in the State of Punjab by alleging that the police party saw the accused on a motorcycle and he was having a bag which was hanging on the handle. He further submitted that it is a case where although total 1200 tablets of Alprazolam have been shown to be recovered from the petitioner but there is nothing on the record to show as to what was the weight of the aforesaid tablets and as to whether it falls in the category of commercial quantity or not. While referring to the challan which was presented under Section 173 Cr.P.C and also the FSL report, he submitted that no such weight has been mentioned at any point of time and in case the aforesaid quantity comes out to be a non-commercial quantity, then the sentence would be on a lesser side and there is no minimum sentence in that case. He submitted that since the petitioner has already faced incarceration for 1 year and 9 months, he may be considered for the grant of regular bail.

3. On the other hand, Mr. Adeshwar Singh Pannu, learned AAG, Punjab has submitted that so far as the custody of the petitioner is concerned, the same is correct and is also correct that there is no weight mentioned in the challan or in the FSL report. He has however opposed the grant of bail to the petitioner on the ground that the petitioner is also involved in two more cases under the NDPS Act, although he has been acquitted in one case and as per his instructions other NDPS case is still pending against the petitioner.

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

5. It is a case where the petitioner has already faced incarceration for 1 year and 9 months. The allegations were pertaining to confiscation of 1200 tablets of Alprazolam and 9 vials of Onerex. So far as 9 vials of

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Onerex are concerned, the aforesaid does not fall in the category of commercial quantity and so far as 1200 tablets of Alprazolam are concerned, there is nothing on the record to show as to what was the weight of the aforesaid tablets nor it has been mentioned in the FSL report or in the challan. The petitioner has already faced incarceration for 1 year and 9 months and as per the learned counsel for the parties, only four prosecution witnesses have been examined till date after the framing of the charges on 02.01.2023 which is almost 1 year and 4 months. The mere fact that the petitioner was earlier convicted in one case under the NDPS Act in which he had undergone sentence of 30 days cannot become a bar for grant of bail to the petitioner. Therefore, considering the aforesaid facts and circumstances, this Court is of the view that in the absence of mentioning of any weight in the FSL report, at this stage, it cannot be said that whether the aforesaid quantity falls in the category of commercial quantity or not. However, it is made clear that anything contained in this order with regard to the aforesaid quantity as to whether it is commercial or not will not be treated to be any observation on the merits of the case but it is only for the purpose of considering the prayer of the petitioner for grant of regular bail.

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

7. Consequently, the present petition is allowed. The petitioner shall be released on regular bail subject to furnishing bail bonds/surety to the satisfaction of the learned trial Court/Duty Magistrate concerned, if not required in any other case.

8. However, anything observed hereinabove shall not be treated as

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an expression of opinion on merits of the case and is meant for the purpose of deciding the present petition only.

30.04.2024 **(JASGURPREET SINGH PURI)**
rakesh **JUDGE**

Whether speaking : Yes/No
Whether reportable : Yes/No

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