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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-4742-2024
Date of decision: 20.05.2024

SANDEEP GUPTA

...Petitioner

VERSUS

THE STATE OF HARYANA

...Respondent

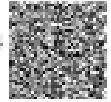
CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Sandeep Singh Jattan, Advocate for the petitioner.

Mr. Gaurav Jindal, Addl. A.G., Haryana.

JASGURPREET SINGH PURI, J. (Oral)

1. The present is a fifth petition filed under Section 439 of the Code of Criminal Procedure for the grant of regular bail to the petitioner in FIR No.211 dated 15.09.2020, under Sections 21, 22 and 29 of the NDPS Act, registered at Police Station Chhappar, District Yamuna Nagar, Haryana.
2. Learned counsel for the petitioner submitted that the petitioner is in custody for 2 years, 5 months and 26 days and earlier his two regular bail petitions were dismissed by this Court on merits on 19.04.2023 and 29.09.2023 vide Annexure P-6 and Annexure P-7, respectively. He further submitted that although the allegations against the petitioner were pertaining to recovery of 1440 capsules of *Spasmo Proxyvon plus Tramadol HCL* 50 mg., 1000 injections of *Tramadol HCL* consisting 2 ml. each, 1975 injections of *Buprenorphine* consisting of 0.3 mg. and 1500 bottles of *Avil Injections* but considering the



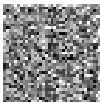
custody of the petitioner and the fact the he is a first time offender, he may be considered for the grant of regular bail. He also submitted that the other co-accused, namely, Akshay Kumar has already been released on default bail.

3. On the other hand, Mr. Gaurav Jindal, Addl. A.G., Haryana submitted that although the petitioner is in custody for 2 years, 5 months and 26 days but recovery in the present case is very large. He further submitted that although the salt contained in *Avil Injections* is not covered in the NDPS Act but the remaining recovery of tablets and injections is not only falling in the category of commercial quantity but is also a very large quantity. He further submitted that it is a case where the petitioner was the driver and the owner of the car and from the said car, the aforesaid recovery was effected and so far as the aforesaid co-accused is concerned, he was sitting besides the driver although he has been granted default bail. He further submitted that there is no ground available with the petitioner for making a departure from the bar contained under Section 37 of the NDPS Act.

4. Learned State counsel also submitted on instructions that now 11 prosecution witnesses have been examined out of total 17 cited prosecution witnesses and the trial is going at a fast pace and the next date fixed before the learned trial Court is 05.07.2024, wherein all the remaining prosecution witnesses have been summoned and therefore, the trial is at the fag end and on this ground as well, the present regular bail petition may be dismissed.

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

6. The present is a fifth successive regular bail petition filed by the petitioner. In the first regular bail petition, the petitioner was granted interim bail by this Court in view of the fact that FSL report had not come and



thereafter, he surrendered before the jail authorities and the second regular bail petition was dismissed as withdrawn. Thereafter, twice his regular bail petitions were dismissed on merits vide Annexure P-6 and Annexure P-7 as aforesaid. Learned counsel for the petitioner has raised a ground of custody and the stage of trial. However, as per the learned State counsel, out of 17 cited prosecution witnesses, 11 prosecution witnesses have already been examined and the remaining prosecution witnesses have been summoned by the learned trial Court for 05.07.2024. Therefore, it cannot be said that the trial is going at a slow pace. The aforesaid alleged recovery from the car of which the petitioner was not only the driver but is also the owner is very large besides it falling in the category of commercial quantity. 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.

7. In view of the aforesaid facts and circumstances, this Court does not deem it fit and proper to grant the concession of regular bail to the petitioner.

8. Consequently, the present petition is hereby dismissed.

9. 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.

20.05.2024
Chetan Thakur

(JASGURPREET SINGH PURI)
JUDGE

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