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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-8627-2024 (O&M)
Date of Decision: 22.02.2024

Mohammad Arif @ Kasif
.....Petitioner

Versus

State of Punjab
.....Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Sahil Goel, Advocate
for the petitioner.

Mr. Mohit Saroha, AAG, Punjab.

JASJIT SINGH BEDI, J.

The prayer in this second petition under Section 439 Cr.P.C. is for the grant of regular bail in case bearing FIR No.62 dated 16.05.2023 under Section 22 of the NDPS Act at Police Station City-1, Malerkotla, District Malerkotla.

2. The brief facts of the case are that the petitioner came to be apprehended with 11 vials of Onerex Codeine Phosphate & Chlorpheniramine Maleate Syrup batch No.ONCS 1931Mfg. Date Mar. 2023 Exp. Date Feb. 2025 alongwith currency notes of Rs.1,90,000/-.

3. The learned counsel for the petitioner contends that the recovery from the petitioner is of quantity marginally higher than the commercial quantity of 10 vials of the contraband in question. The prosecution version that the petitioner was carrying drug money of

Rs.1,90,000/- was highly unbelievable given the fact that he was found

in possession of only 11 vials. In fact, the petitioner had been picked up from the house and had been falsely implicated in the present case. As he was in custody since 16.05.2023, none of the prosecution witnesses had been examined so far after charges had been framed, the Trial was not likely to be concluded anytime soon and therefore, he was entitled to the concession of bail.

4. The learned counsel for the State, on the other hand, contends that this is the second bail application of the petitioner, the first one having been argued and withdrawn as recently as on 14.12.2023. No change in circumstances had been pointed out by the petitioner entitling him to the grant of bail. Even otherwise, commercial quantity of contraband had been recovered from him and therefore, in view of the bar contained under Section 37 of the NDPS Act, he was not entitled to the concession of bail.

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

6. On 14.12.2023, when the first bail application of the petitioner had come up for hearing, the following order was passed:-

“After arguing for some time, learned counsel for the petitioner prays for withdrawal of the present petition at this stage.

Dismissed as withdrawn at this stage”.

7. Further, no change in circumstances have been pointed out by the petitioner after his first bail application came to be argued and withdrawn other than stating that charges have been framed. The recovery from the petitioner is of Rs.1,90,000/- of drug money and of

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commercial quantity of contraband. There is absolutely nothing to suggest that there is any delay in the conclusion of the Trial as the FIR in question was registered only on 16.05.2023. Even otherwise, the bar contained under Section 37 of the NDPS Act would apply to the case of the petitioner.

8. In view of the above, I find no merit in the present petition. Therefore, the same stands dismissed.

(JASJIT SINGH BEDI)
JUDGE

February 22, 2024
sukhpreet

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