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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-11124-2024
Date of decision: 09.04.2024

MANDEEP SINGH ALIAS GOLA

...Petitioner

VERSUS

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Rahul Singh, Advocate for
Mr. Arvind Rajotia, Advocate
for the petitioner.

Mr. Adeshwar Singh Pannu, AAG, Punjab.

JASGURPREET SINGH PURI, J. (Oral)

1. The present is a third petition filed under Section 439 of the Code of Criminal Procedure for the grant of regular bail to the petitioner in FIR No.50 dated 10.06.2022, under Section 22 of the NDPS Act, registered at Police Station City Morinda, District Rupnagar, Punjab.

2. Learned counsel appearing on behalf of the petitioner submitted that the petitioner is in custody for 1 year, 8 months and 25 days and as per the prosecution story, there was an alleged recovery of 20 grams of *Buprenorphine Hydrochloride powder* from the petitioner and 20 grams of *Buprenorphine Hydrochloride powder* from the co-accused, namely, Gurpreet Singh @ Soni. He further submitted that so far as the alleged recovery of 20 grams of *Buprenorphine Hydrochloride powder* from the petitioner is concerned, the same

is exactly on the border line as that of the commercial quantity as defined under the NDPS Act and therefore, would not fall in the category of commercial quantity. He further submitted that the petitioner was falsely implicated in the present case in view of the fact that he was earlier involved in some other cases under the NDPS Act. He further submitted that be that at it may, now the custody of the petitioner has come out to be 1 year, 8 months and 25 days and the only allegation is that there has been a recovery of 20 grams of *Buprenorphine Hydrochloride powder* and for this quantity, he has already faced sufficient incarceration. He also submitted that the petitioner is exactly at parity with the aforesaid co-accused, namely, Gurpreet Singh @ Soni, who has already been extended the benefit of regular bail by a Coordinate Bench of this Court on 09.08.2023 vide Annexure P-5 and as such, the petitioner may also be considered for grant of regular bail.

3. On the other hand, Mr. Adeshwar Singh Pannu, AAG, Punjab, on instructions from ASI Narinder Pal, submitted that it is correct that the petitioner is in custody for 1 year, 8 months and 25 days and qua the petitioner there was a recovery of 20 grams of *Buprenorphine Hydrochloride powder*. He further submitted that so far as the parity qua the role of the petitioner with the aforesaid co-accused, namely, Gurpreet Singh @ Soni is concerned, the petitioner is at parity with the aforesaid co-accused but there is a difference of criminal antecedents between the two accused. He also submitted that so far as the aforesaid co-accused, namely, Gurpreet Singh @ Soni is concerned, he was involved in one case under the Excise Act, whereas the petitioner is involved in as many as 23 more cases including some cases under the NDPS Act.

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

5. The petitioner is in custody for 1 year, 8 months and 25 days and the aforesaid co-accused, namely, Gurpreet Singh @ Soni with whom the petitioner is at parity qua the role has already been extended the benefit of regular bail by this Court as aforesaid vide Annexure P-5. The alleged quantity recovered from the petitioner is stated to be 20 grams of *Buprenorphine Hydrochloride powder*, which is on the border line of the commercial quantity as defined under the NDPS Act. In these circumstances, the pendency of the other cases against the petitioner would not become a ground for denial of regular bail to the petitioner considering his total custody. Since the alleged recovery from the petitioner was 20 grams of *Buprenorphine Hydrochloride powder*, even the provision of Section 37 of the NDPS Act will not be applicable to the present petitioner for the purpose of considering the grant 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.

7. 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.

09.04.2024
Chetan Thakur

(JASGURPREET SINGH PURI)
JUDGE

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