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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-33195-2023 (O & M)
Date of decision: 10.05.2024

Ravinder Singh @ Ravi Petitioner

V/s

State of Punjab ...Respondent

CORAM: HON’BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. M.S. Saini, Advocate, for the petitioner.

Mr. Vinay Kumar Malhotra, DAG, Punjab.

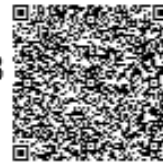
JASJIT SINGH BEDI, J. (Oral)

The prayer in this second petition under Section 439 Cr.P.C. is for the grant of regular bail to the petitioner in case FIR No.0087 dated 28.04.2022 under Sections 21/22/29 of the NDPS Act, 1985 at Police Station Mahilpur, District Hoshiarpur, Punjab.

2. The brief facts of the case are that Ravinder Singh @ Ravi (petitioner) came to be apprehended with 17 injections of Buprenorphine and 05 grams of heroin.

3. The learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. There is a violation of the mandatory provisions of the NDPS Act such as Sections 42 and 50. No independent witness was joined at the time of search and seizure

from the petitioner. The seals used by the police officials were handed over



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to an interested witness and a member of the police party. Therefore, the possibility of tampering with the same could not be ruled out. As the petitioner was in custody since 28.04.2022, he was entitled to the concession of bail.

4. The learned counsel for the State, on the other hand, while referring to the reply dated 13.09.2023, contends that this is the second bail application of the petitioner, the first one having been dismissed on merits by this Court vide order dated 12.04.2023 (Annexure P-4). The contentions raised regarding non-compliance of Sections 42 and 50 of the NDPS Act are to be adjudicated upon during the course of the Trial. The petitioner is an accused in one other case under the NDPS Act arising out of FIR No. 35 dated 11.02.2022 under Sections 22, 29 of the NDPS Act, Police Station Mahilpur. In view of the said fact, the possibility of recording a satisfaction under Section 37 of the NDPS Act did not arise. Therefore, the petitioner was not entitled to the concession of bail.

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

6. As per the prosecution case, the petitioner was apprehended with the contraband in question. The violations, if any, of Section 42 and 50 of the NDPS Act would be adjudicated upon during the course of the Trial and cannot be considered at this stage. The petitioner is an accused in one other case under the NDPS Act. His first petition for the grant of regular bail was dismissed on merits on 12.04.2023. Merely because there is some delay in the conclusion of the Trial does not entitle the petitioner to the grant of bail once his first bail application was argued at length and dismissed on merits. Even otherwise, in view of his antecedents, the question of recording a satisfaction under Section 37 the NDPS Act does not arise.



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7. In view of the above discussion, I find no merit in the present petition and the same stands dismissed.

(JASJIT SINGH BEDI)
JUDGE

May 10, 2024
sukhpreet

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