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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-42608-2024
Date of decision: 14.10.2024

PARDEEP KUMAR FOJI

...Petitioner(s)

VERSUS

STATE OF PUNJAB

...Respondent(s)

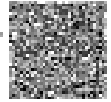
CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Satnam Singh Gill, Advocate
for the petitioner.

Mr. Rajiv Verma, DAG, Punjab.

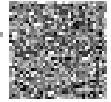
JASGURPREET SINGH PURI, J. (Oral)

1. The present is a second petition filed under Section 483 of the BNSS, 2023 for the grant of regular bail to the petitioner in FIR No.70 dated 17.06.2021, under Sections 22, 25 and 29 of the NDPS Act, registered at Police Station Barnala, District Barnala, Punjab.
2. Learned counsel for the petitioner submitted that the petitioner is in custody from 08.07.2021 and as per the allegations in the FIR, the police received a secret information that two persons, namely, Pardeep Kumar (petitioner) and Amritpal Singh @ Bittu are coming in a car along with intoxicant tablets and the number of the car and the make of the car were also mentioned in the FIR but neither the petitioner nor the aforesaid co-accused was apprehended and as per the prosecution story, there had been a recovery of



50000 tablets of *tramadol* from the aforesaid car. He further submitted that thereafter, the petitioner was arrested in the present case but after his arrest, no recovery was effected from him but so far as the aforesaid co-accused is concerned, after his arrest there was a further recovery of 50000 tablets of *tramadol* from him along with drug money of Rs.1,00,000/-. He further submitted that only 5 prosecution witnesses have been examined till date out of total cited 34 prosecution witnesses and therefore, considering the aforesaid custody of the petitioner, he may be considered for the grant of regular bail.

3. On the other hand, Mr. Rajiv Verma, DAG, Punjab submitted that so far as the custody as so stated by the learned counsel for the petitioner is concerned, although the petitioner was arrested on the aforesaid date i.e. on 08.07.2021 but his total custody in the present case is only 1 year and 2 months. He further submitted that in fact the petitioner was involved in one more case under the NDPS Act, whereby he was convicted and was sentenced to undergo imprisonment for a period of 10 years under the NDPS Act on 12.08.2015 and thereafter, he was released on parole on 20.07.2016 but he did not surrender in time and he jumped the parole and it was later on after about 5 years that he was ultimately arrested on 08.07.2021. He further submitted that the present FIR is of dated 17.06.2021 and during the time when the petitioner was on parole, wherein he jumped the parole as aforesaid, he committed the present offence. He further submitted that although after the arrest of the petitioner, no recovery was effected from him but the secret information that the police received was pertaining to the petitioner and aforesaid co-accused, namely, Amritpal Singh @ Bittu and details of the same have been mentioned in the FIR

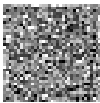


itself and even the number of the car and the make of the car have been mentioned in the FIR. He further submitted that on seeing the police party, both the accused including the petitioner ran away from the spot and from the aforesaid car which was seized, there was a recovery of 50000 tablets of *tramadol*, which is a very huge quantity. He also submitted that the petitioner is a habitual offender and there is a strong apprehension that in case the petitioner is released on bail then he may not only abscond but he may also repeat the offence especially considering his previous conduct as aforesaid.

4. Learned State counsel has opposed the grant of regular bail to the petitioner on the ground that the prayer of the petitioner is hit by the bar contained under Section 37 of the NDPS Act and learned counsel for the petitioner has not been able to make out any case for making a departure from the bar contained under Section 37 of the NDPS Act and therefore, the present petition may be dismissed.

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

6. The actual custody of the petitioner comes out to be 1 year and 2 months. In the FIR, the name of the petitioner as well as that of the other co-accused, namely, Amritpal Singh @ Bittu has been mentioned and according to the FIR, the police got a secret information that these two accused persons were coming in a car bearing No.HR-01AX-0315 but as per the prosecution, both the aforesaid accused persons ran away from the spot and there had been a huge recovery of 50000 tablets of *tramadol* from the aforesaid car. After the aforesaid co-accused, namely, Amritpal Singh @ Bittu was arrested, there was a further recovery of 50000 tablets of *tramadol* from him along with drug money



of Rs.1,00,000/- but as per the learned counsel for the parties, there was no recovery of any intoxicant tablet from the petitioner after his arrest.

7. Learned State counsel has raised a very serious apprehension that earlier in one of the cases when the petitioner was convicted and was sentenced to undergo imprisonment for a period of 10 years under the NDPS Act, he was granted parole and he jumped the parole and for a period of 5 years he was absconding and thereafter, he was arrested and during the interregnum period, he committed another offence and the present FIR was lodged. The apprehension which has been expressed by the learned State counsel that in case the petitioner is released on bail then he may not only abscond from justice but he may also repeat the offence cannot be ignored and does carry weight.

8. Therefore, considering the gravity of the offence, conduct of the petitioner and the bar contained under Section 37 of the NDPS Act, this Court does not deem it fit and proper to grant the concession of regular bail to the petitioner.

9. Consequently, finding no merit in the present petition, the same is hereby dismissed.

10. 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.

(JASGURPREET SINGH PURI)
JUDGE

14.10.2024
Chetan Thakur

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