

2024:PHHC:087991



IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

288

CRM-M-2746-2024 (O&M)
Date of decision: 16.07.2024

Ajay @ Golu ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Vikas Bishnoi, Advocate
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

MANISHA BATRA, J. (Oral)

1. Prayer in this petition, filed under Section 439 Cr.P.C., is for grant of regular bail to the petitioner in FIR No. 215 dated 09.06.2023, registered under Sections 22-C and 27-A (added later on) of the NDPS Act, 1985 at Police Station Bhuna, District Fatehabad.
2. Brief facts of the case relevant for the disposal of the present petition are that on 09.06.2023, ASI Kuldeep Singh, who was along with other police officials, noticed a young boy coming on a motorcycle, who on seeing the police party, turned his motorcycle and accelerated the speed. However, he was apprehended by the police party. On inquiry, he disclosed his name as Ajay @ Golu, who is the present petitioner. The motorcycle was without any registration number and one bag made of cloth was tied on the right side handle of the same. ASI Ashok Kumar introduced himself to the accused and apprised him of his right provided under Section 50 of the Act

2024:PHHC:087991



with an offer to be searched either before a gazetted officer or before a Magistrate, to which, he opted to be searched in the presence of a gazetted officer. Thereafter, Mr. Jagbir Singh Punia, SDO, CADA, Fatehabad was called at the spot and in his presence, the search of the said bag was conducted and recovery of 600 intoxicant tablets make NRX Tramadol Prolonged Release Tablets 100 mg was effected and on weighing the same, the total weight of the tablets was found to be 296 grams. The petitioner was formally arrested at the spot. During investigation, the petitioner suffered disclosure statement that alleged contraband was given to him by one Balwan in exchange of Rs. 4200/-. After completion of necessary investigation and usual formalities, *challan* under Section 173 Cr.P.C. was presented and presently, the petitioner is facing trial for commission of aforementioned offences. He had moved an application for grant of regular bail before the trial Court but the same had been dismissed, vide order dated 22.12.2023.

3. Learned counsel for the petitioner has argued that he has been falsely implicated in this case. The petitioner is in judicial custody since 09.06.2023. The alleged recovery of the contraband was not effected from his conscious possession. More so, the same is of non-commercial quantity. The petitioner is a young boy aged about 20 years and no recovery is to be effected from him. Investigation has since been completed and *challan* has been presented before the Court. Co-accused Balwan has been granted concession of anticipatory bail by this Court, vide order dated 21.12.2023 passed in **CRM-M-44016-2023**. Trial is likely to take a long time. The petitioner is on interim bail, granted by this Court, and he has not misused

2024:PHHC:087991



the same. Therefore, it is urged that the petition deserves to be allowed and the petitioner deserves to be granted benefit of regular bail.

4. *Per contra*, learned State counsel, on the basis of the status report, has vehemently argued that the petitioner is not entitled to get benefit of bail as a commercial quantity of the contraband was recovered from him. He was nabbed at the spot. His story regarding false implication and plantation of the recovered contraband is concocted one. The trial may be expedited. Hence, it is urged that the petition is liable to be dismissed.

5. I have learned counsel for the parties at considerable length and have also perused the material placed on record.

6. On a perusal of the record, it reveals that the petitioner is in custody since 09.06.2023. As per prosecution, the total weight of the recovered intoxicant tablets was found to be 296 grams, which obviously falls under the commercial quantity as the threshold quantity for the said contraband is 250 grams. So far as the plea of the petitioner that co-accused Balwan has been granted concession of anticipatory bail by this Court is concerned, it is worth noticing that he was named by the accused and no subsequent recovery was effected from him. There are serious and specific allegations against the petitioner. There is nothing on record to suggest that there would be any undue delay in conclusion of trial. Keeping in view the gravity of allegations as levelled against the petitioner, the quantity of alleged contraband recovered from the petitioner, the quantum of sentence which the conviction may entail and the attendant facts and circumstances of the case, this Court is of the considered opinion that he does not deserve to be granted concession of regular bail, at this stage. Accordingly, the present

2024:PHHC:087991



petition is dismissed. The petitioner is directed to surrender before the jail authorities on or before 22.07.2024.

7. It is made clear that any observation made herein above is only for the purpose of deciding the present petition and the same shall have no bearing on the merits of the case.

8. Let a copy of this order be sent to concerned jail as well as to learned trial Court.

16.07.2024

Waseem Ansari

(MANISHA BATRA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>Yes</i>