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

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CRM-M-14919-2024 (O&M)
Date of decision: 25.07.2024

Bilal Ahmed Dar

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Ghulam Nabi Malik, Advocate
for the petitioner.

Mr. A. S. Samra, AAG, Punjab.

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. 47 dated 16.03.2023, registered under Section 22 (c) of the NDPS Act, 1985 at Police Station Sarhind, District Fatehgarh Sahib.
2. Brief facts of the case relevant for the disposal of the present petition are that on 16.03.2023, ASI Jasveer Singh, who was on patrolling duty along with other police officials, noticed that a young man was walking while holding a heavy grey colour bag in his right hand. After seeing the police party, he got perplexed and started walking fast and threw the bag. On suspicion, he was stopped by the police party. On inquiry, the said person disclosed his name as 'Bilal Ahmed Dar' i.e. the present petitioner. Thereafter, 61 vials of intoxicant syrup make Storex of 100 ml each were

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recovered from the said bag. The petitioner could not produce any valid licence for possessing the said syrups. After completing the usual formalities, ruka was sent to the police station concerned for registration of the FIR. The petitioner for formally arrested. 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 27.04.2023.

3. Learned counsel for the petitioner has argued that he has been falsely implicated in this case. The petitioner is in judicial custody since 16.03.2023. He is a poor person and used to sell clothes in streets for earning livelihood. While effecting recovery of the alleged contraband, the provisions of Section 50 of the Act were not complied with. The story put-forth by the prosecution is highly improbable. The investigation has since been completed and *challan* has been presented. The trial is likely to take a long time. 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 rigors of Section 37 of the Act are attracted in this case. The trial may be expedited. Hence, it is urged that the petition is liable to be dismissed.

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5. I have learned counsel for the parties at considerable length and have also perused the material placed on record.
6. As per allegations in the FIR, the petitioner was apprehended by the police on 16.03.2023 and recovery of 61 vials of intoxicant syrups were effected from him. FSL report has been received, as per which, *Chlorpheniramine Maleate & Codeine Phosphate* were found present in the recovered contraband. The quantity of the alleged contraband falls under the commercial quantity. Therefore, the rigors of Section 37 of the Act would certainly be attracted to this case. The question that while effecting the recovery from the petitioner, the provisions of Section 50 of the Act were not complied with, cannot be taken into consideration at this stage, while deciding an application filed under Section 439 of Cr.P.C. Keeping in view the gravity of the allegations as levelled against him, the quantity of the recovered contraband, 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 the petitioner is not entitled to get benefit of regular bail, at this stage. Hence, the petition is dismissed.
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.

25.07.2024

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No