

2024.PHHC.093607



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

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CRM-M-18957-2024 (O&M)
Date of decision: 25.07.2024

Naryan Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. P. S. Jammu, 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. 131 dated 27.10.2012, registered under Section 18 of the NDPS Act, 1985 at Police Station Kotwali Nabha, District Patiala.
2. Brief facts of the case relevant for the disposal of the present petition are that on 27.10.2012, co-accused Ishar Singh and Manohar Singh were arrested by the police and the recovery of 10 kgs. of opium was effected from him. The petitioner was nominated in this case on the basis of the disclosure suffered by the said co-accused, wherein they stated that they had procured the recovered contraband from the petitioner and he had told them to sell the same in Punjab. After completion of necessary investigation usual formalities, challan under Section 173 of Cr.P.C. was presented qua

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aforesaid co-accused. However, the petitioner was absconding and could not be arrested. Consequently, proceedings under Section 82 of Cr.P.C. were initiated against him and he was declared a proclaimed offender by the trial Court. The petitioner has now been arrested on 11.12.2023. He had moved an application for grant of regular bail before the trial Court but the same had been dismissed, vide order dated 27.03.2024.

3. Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in this case. The petitioner is in custody since 11.12.2023. He was not arrested at the spot and has been involved in this case on the basis of the disclosure statement made by the co-accused, which is not admissible in law against the petitioner. The aforesaid co-accused have been convicted by the trial Court, vide judgment dated 04.05.2015 passed by the trial Court. The trial qua the petitioner is likely to take time. No useful purpose would be served by keeping him in custody anymore. It is, therefore, urged that the petition deserves to be allowed.

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 he had been absconding from the process of law and stood arrested only on 23.12.2023, though the FIR pertains to the year 2012. In the meanwhile, trial qua aforesaid co-accused has been concluded and they have been convicted by the trial Court, vide judgment dated 04.05.2015. Apart from the present FIR, the petitioner is involved in two more FIRs under the NDPS Act. The investigation has since been completed and supplementary challan has been presented on 16.02.2024. There are chances of the petitioner's absconding again, if extended benefit of bail. Hence, it is urged

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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. As per allegations in the FIR, co-accused Ishar Singh and Manohar Singh were apprehended by the police party on 27.10.2012 and the recovery of 10 kgs. of opium was effected from them, which falls under the commercial quantity. Admittedly, the aforesaid co-accused have been convicted by the trial Court for a period of 10 years. The petitioner was nominated in this case on the disclosure of the co-accused, wherein they stated that they had procured the recovered contraband from the petitioner, who had instructed them to sell the same in Punjab. He had also given them his account number so that they can deposit the money in his account after selling the contraband. A perusal of the status report shows that the account in question was verified during investigation and it was found in the name of the petitioner, which shows that the petitioner was the mastermind of the subject crime. The petitioner has been absconding for a period more than 11 years. During the interregnum, he was declared a proclaimed offender and even an FIR under Section 174-A of IPC had been registered against him. In view thereof, the apprehension of learned State counsel cannot be said to be unfounded that if the petitioner is released on bail, he can again abscond. The rigors of Section 37 of the NDPS Act would also be attracted against him as he is stated to be involved in two more cases under the NDPS Act. Keeping in view the nature of the allegations as levelled against him, the antecedents of the petitioner, the quantity of the contraband recovered from the co-accused, the quantum of sentence which the conviction may entail

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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

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