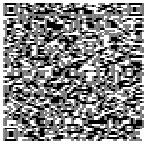


2024:PHHC:143327



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

289

CRM-M-20428-2024 (O&M)
Date of decision: 05.11.2024

Wazir Masih ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

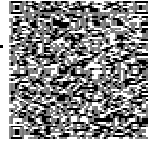
Present:- Mr. Vishal Mittal, Advocate
for the petitioner.

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. 130 dated 29.07.2023, registered under Sections 22(c) of the NDPS Act, 1985 at Police Station City Malout, District Sri Muktsar Sahib.
2. Brief facts of the case relevant for the disposal of the present petition are that on 29.07.2023, the petitioner along with co-accused Jagmeet Singh, while coming on a motorcycle, was apprehended by a police party headed by SI Karamjit Singh and recovery of 2100 tablets of Clovidol-100 SR was effected from them. They were formally arrested at the spot. After completion of necessary investigation and usual formalities, *challan* was presented before the Court on 22.05.2024 and presently, the petitioner along with the co-accused is facing trial for commission of aforesaid mentioned offence. He had moved an application before the trial Court for grant of regular bail but the same had been dismissed, vide order dated 27.12.2023.

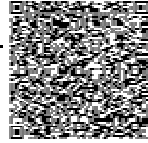
2024:PHHC:143327



3. Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in this case. In fact, the recovery of the alleged contraband, shown to have been effected from the petitioner and co-accused, was planted by the police officials. No independent witness was joined at the time of effecting alleged recovery from the petitioner. The story put forth by the police party is concocted one. It is also argued that the recovery memo (Annexure P-3) was prepared by the police officials while sitting in the police station in the absence of the petitioner as the same does not bear the signatures of the petitioner nor it is mentioned that he had refused to sign the same. Investigation has since been completed and challan has been presented. The trial is likely to take a long time. The petitioner is in custody since 29.07.2023. No useful purpose would be served by keeping him in custody anymore. It is, therefore, urged that the petition deserves to be allowed.

4. Detailed reply has been filed by the respondent-State. It is submitted therein and learned State counsel has argued that the petitioner was apprehended by the police party on 29.07.2023 along with the aforesaid co-accused and recovery of 2100 tablets of Clovidol-100 SR, which falls under the commercial quantity, was effected from them. During the course of recovery and further investigation, proper procedure as prescribed under the Act was followed. The plea taken by the petitioner that the recovery memo was forged by the police officials has been categorically denied by the respondent-State. It is submitted that since a commercial quantity of the contraband has been recovered from the petitioner and co-accused, the rigors of Section 37 of the NDPS Act would be attracted in this case. Trial is going at a proper pace. It is also argued that if the petitioner is released on bail, he may abscond or indulge in the similar

2024:PHHC:143327



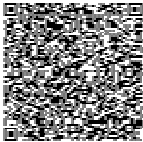
offences. It is, thus, argued that the petition is liable to be dismissed.

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

6. As per the allegations, the petitioner was apprehended by the police party on 29.07.2023 along with aforesaid co-accused and recovery of 2100 tablets of Clovidol-100 SR was effected from them, which falls under the commercial quantity. Hence, the rigors of Section 37 of the NDPS Act would certainly be attracted against the petitioner. As regards the arguments advanced by learned counsel for the petitioner with regard to recovery memo not bearing the signatures of the petitioner and having been forged by the police officials and also the non-compliance of the statutory provisions of the Act during investigation by the police party, the same have direct bearing on the merits of the case, which cannot be looked into at this stage while deciding a bail petition filed under Section 439 of Cr.P.C. More so, the plea of the petitioner taken with regard to recovery memo has been categorically denied by the respondent-State. There is nothing on record to show that there would be any undue delay in conclusion of trial. The apprehension expressed by learned State counsel that the petitioner, if extended benefit of bail, may abscond or indulge in similar offences can also not be stated to be unfounded. Keeping in view the discussion as made above, the quantity of recovered contraband, the quantum of sentence which the conviction may entail and the attendant facts and circumstances of the case, I am of the considered opinion that the petitioner does not deserve to be granted benefit of regular bail, at this stage. Hence, the petition is dismissed.

7. It is made clear that the observations made hereinabove are only for

2024:PHHC:143327



the purpose of deciding the present petition and the same shall not be construed as an expression of opinion on the merits of the case.

05.11.2024

Waseem Ansari

Whether speaking/reasoned

Whether reportable

(MANISHA BATRA)
JUDGE

Yes/No

Yes/No