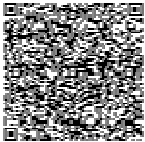


2024:PHHC:136415



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

207

CRM-M-22437-2024 (O&M)
Date of decision: 18.10.2024

Gagandeep Singh @ Gaggi ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

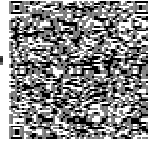
Present:- Mr. Jagpal Singh, Advocate
for the petitioner.

Mr. Satjot Singh, 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. 124 dated 23.08.2023, registered under Section 22 of the NDPS Act, 1985 at Police Station Bullowall, District Hoshiarpur.
2. Brief facts of the case relevant for the disposal of the present petition are that on 23.08.2023, the petitioner was apprehended by a police party and recovery of 255 grams of intoxicant powder (*Alprazolam*) was effected from him. He was formally arrested at the spot. After completion of necessary investigation and usual formalities, *challan* was presented in the Court and presently, the petitioner is facing trial for commission of aforesaid mentioned offences. He had moved an application before the learned trial Court for grant of regular bail but the same had been dismissed, vide order dated 21.03.2024.

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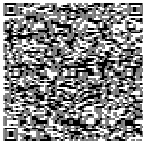
3. Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in this case. A false recovery was planted upon the petitioner. Even otherwise, no independent witness was joined at the time of effecting recovery from the petitioner. The mandatory provisions of Sections 50 and 16 of the NDPS Act were not complied with. The petitioner is in judicial custody since 23.08.2023. The trial is likely to take a long 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. Custody certificate of the petitioner has been filed, which is taken on record. Learned State counsel has argued that the petitioner was apprehended by the police party on 23.08.2023 and 255 grams of intoxicant powder i.e. Alprazolam was recovered from him. It is further submitted that since the quantity of the recovery contraband falls under the commercial quantity, 100 grams being threshold for commercial quantity, the rigors of Section 37 of the NDPS Act would be attracted against the petitioner. The claim of the petitioner regarding his false implication of the petitioner is baseless. Trial is going on at a proper pace. It is also argued that if the petitioner is released on bail, he may abscond or indulge in similar offences. It is, thus, argued 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 the allegations, the petitioner was apprehended by the police party on 23.08.2023 and recovery of 255 grams of intoxicant powder (Alprazolam) was effected from him, which falls under the commercial quantity. Hence, the rigors of Section 37 of the NDPS Act would certainly be

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attracted in this case. So far as the arguments raised by learned counsel for the petitioner with regard to lacunas in investigation are concerned, the same cannot be taken into consideration at this stage while deciding a petition for grant of regular bail. There is nothing on record to suggest that there would be any undue delay in conclusion of trial as out of total 08 prosecution witnesses, 03 witnesses have already been examined before the trial Court. The apprehension raised by learned State counsel that the petitioner, if extended bail, may abscond or indulge in similar offences cannot be stated to be unfounded. Keeping in view the discussion as made above, 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 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.

18.10.2024
Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No