

2024.PHHC.129147



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

284

CRM-M-27264-2024 (O&M)
Date of decision: 30.09.2024

Gagandeep Singh @ Gagan ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

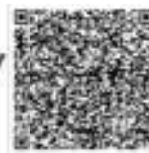
Present:- Mr. Kamal Naurla, Advocate
for the petitioner.

Mr. Akshay Kumar, 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. 06 dated 24.01.2023, registered under Sections 21 and 29 of the NDPS Act, 1985 at Police Station Kathgarh, District SBS Nagar.
2. Brief facts of the case relevant for the disposal of the present petition are that on 24.01.2023, on receiving a secret information, the petitioner was apprehended by a police party and recovery of 01 kg. of heroin was effected from him. The petitioner was formally arrested at the spot. After completion of necessary investigation and usual formalities, *challan* under Section 173 of Cr.P.C. was presented in the Court and presently, the petitioner is facing trial for commission of aforesaid mentioned offence. He had moved an application before the learned trial Court for grant of regular bail but the same had been dismissed, vide order dated 28.03.2024.

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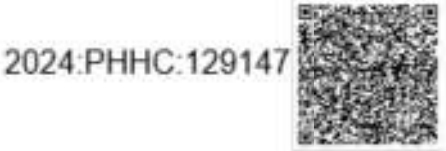


3. Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in this case. He is the resident of Hoshiarpur but the aforesaid recovery is shown to have been effected from him from the area of Police Station Kathgarh, SBS Nagar. No independent witness was joined at the time of effecting alleged recovery from the petitioner. The story put forth by the police party is concocted one. He is in judicial custody since 24.01.2023. The trial is likely to take 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. *Per contra*, learned State counsel, in terms of the status report which is available on record, has argued that the petitioner was apprehended by the police party on 24.01.2023 and recovery of 01 kg. of heroin, which falls under the commercial quantity, was effected from him. During the course of recovery and further investigation, proper procedure as prescribed under the Act was followed. Hence, the rigors of Section 37 of the NDPS Act would be attracted against him. The trial is going on at a proper pace as out of total 12 prosecution witnesses, 09 witnesses have already been examined before the trial Court. It is also argued that if the petitioner is released on bail, he may 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. The petitioner was apprehended by the police party on 24.01.2024 and recovery of 01 kg. of heroin was effected from him, which falls under the commercial quantity. Hence, the rigors of Section 37 of the NDSP Act would certainly apply in this case. As regards the arguments advanced by learned



counsel for the petitioner with regard to 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. There is nothing on record to show that there would be any undue delay in conclusion of trial as out of total 12 prosecution witnesses, 09 witnesses have since been examined. The apprehension expressed by learned State counsel that if extended benefit of bail, the petitioner may indulge in similar offences, cannot 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 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.

30.09.2024
Waseem Ansari

(MANISHA BATRA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>