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

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CRM-M-29134-2024 (O&M)
Date of decision: 21.11.2024

Naseeb Singh @ Rana ...Petitioner

Versus
State of Punjab ...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Ms. Satwant Mehta, 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. 199 dated 09.09.2023, registered under Sections 21 and 29 of the NDPS Act, 1985 at Police Station City Moga, District Moga.
2. Brief facts of the case relevant for the disposal of the present petition are that on 09.09.2023, the petitioner along with co-accused Kuldeep Singh @ Deep was apprehended by a police party headed by SI Paramjit Kaur on the basis of a secret information that they used to sell heroin. On conducting search of the petitioner, recovery of 265 grams of heroin was effected from his shoulder bag, whereas from the co-accused, the drug money of Rs.3,57,000/- and 05 grams of heroin was recovered from his bag, which he was carrying. Both of them were formally arrested at the spot. After completion of necessary investigation and usual formalities, *challan* was presented before the Court on and presently, the petitioner along with the co-accused is facing trial for

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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 16.03.2024.

3. Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in this case. Co-accused Kuldeep Singh has already been granted concession of regular bail by this Court, vide order dated 20.02.2024 passed in **CRM-M-61846-2023**. Even otherwise, the quantity of the contraband allegedly recovered from the petitioner is marginally higher than the commercial quantity. 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 09.09.2023. No useful purpose would be served by keeping him in custody anymore. It is, therefore, urged that the petition deserves to be allowed. To fortify his argument, learned counsel for the petitioner has relied upon certain orders of this Court, whereby the accused, from whose custody the contraband so recovered was marginally higher than the commercial quantity, have been granted concession of regular bail.

4. Status report has already been filed by the respondent-State, which is available on record. It is submitted therein and learned State counsel has argued that the petitioner was apprehended at the spot and recovery of 265 grams of heroin was effected from him, which falls under the commercial quantity. Hence, the rigors of Section 37 of the NDPS Act would be attracted against the petitioner. The petitioner is involved in four other cases under the NDPS Act, apart from some other cases under the provisions of Indian Penal Code. 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 offences. It is, thus,

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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 09.09.2023 along with aforesaid co-accused and recovery of 265 grams of heroin was effected from him. The quantity of the contraband recovered from the petitioner falls under the commercial quantity. Although, as per petitioner, he is involved in two more cases under the NDPS Act, however, a perusal of the status report reveals that he involved in as many as five cases under the NDPS Act, which shows that he is a habitual offender. Hence, the rigors of Section 37 of the NDPS Act would certainly be attracted against him. 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 criminal antecedents of the petitioner. So far as the claim of the petitioner seeking parity with the co-accused, who has been granted concession of regular bail by this Court, is concerned, it can be stated that the case of the petitioner is not on the similar footing with that of the co-accused as from his custody only 05 grams of heroin along with some drug money was allegedly recovered. Learned counsel for the petitioner has relied upon certain orders of this Court, whereby the accused, from whose custody the contraband so recovered was marginally higher than the commercial quantity, have been granted concession of regular bail. However, it is well settled proposition of law that the orders of bail are not necessarily orders of any precedential value. Reliance in this regard can be placed upon the authority cited

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as *Gajanand Agarwal vs. State of Orrisa and others : 2006(4) R.C.R.(Criminal) 311*. Therefore, keeping in view the discussion as made above, the quantity of recovered contraband, the criminal antecedents of the petitioner, 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.

21.11.2024
Waseem Ansari

(MANISHA BATRA)
JUDGE

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