

2024:PHHC:108573



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

270

CRM-M-30583-2024 (O&M)
Date of decision: 23.08.2024

Saurav Kumar @ Saurabh Kumar

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Fatehjeet Singh, 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. 145 dated 12.07.2023, registered under Section 21 of the NDPS Act, 1985 and Section 25 of the Arms Act, 1959 at Police Station Division No. 8, District Jalandhar Commissionerate, Punjab.
2. Brief facts of the case relevant for the disposal of the present petition are that on 12.07.2023, the petitioner was apprehended by the police party and the recovery of 510 grams of heroin and a country made pistol with 05 live cartridges was effected from him. The petitioner was formally arrested at the spot. After completion of necessary investigation and usual formalities, *challan* under Section 173 Cr.P.C. was presented in the Court on 12.01.2024 and presently, the petitioner is facing trial for commission of aforementioned offence. He had moved an application for grant of regular

2024:PHHC:108573



bail before the trial Court but the same had been dismissed, vide order dated 22.05.2024.

3. Learned counsel for the petitioner has argued that he has been falsely implicated in this case. He was not present at the spot disclosed in the FIR and no recovery of contraband was effected from him. Rather, the contraband allegedly recovered from the petitioner was planted by the police officials in order to save the real culprits, which is apparent from the fact that recovery memo is not signed by the petitioner. More so, no independent witness was joined at the time of effecting alleged recovery. The mandatory provisions of Sections 42 and 50 of the NDPS Act were also not complied with. The petitioner is in judicial custody since 12.07.2023. The trial is likely to take time. No useful purpose would be served by keeping him in custody anymore. Therefore, it is urged that the petition deserves to be allowed and the petitioner deserves to be granted benefit of regular bail.

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 a commercial quantity of the contraband was recovered from him. He was nabbed at the spot. His story regarding false implication and plantation of the recovered contraband is concocted one. Since the recovery of the contraband effected from the petitioner falls under the commercial quantity, the rigors of Section 37 of the NDPS Act would be attracted against him and he is not entitled to get benefit of bail. Investigation has since been completed, *challan* has been presented and the trial is going on. Hence, it is urged that the petition is liable to be dismissed.

5. I have heard learned counsel for the parties at considerable

2024:PHHC:108573



length and have also perused the material placed on record.

6. On a perusal of the record, it reveals that the petitioner is in custody since 12.07.2023. The alleged recovery effected from the petitioner was of commercial quantity. Hence, the rigors of Section 37 of the NDPS Act would certainly be attracted in this case. There are serious and specific allegations against the petitioner. There is nothing on record to suggest that there would be any undue delay in conclusion of trial. The arguments raised by learned counsel for the petitioner with regard to flaws in investigation cannot be looked into at this stage as the same is to be decided by the trial Court after appreciating the entire evidence and material placed on record before it. Therefore, keeping in view the gravity of allegations as levelled against the petitioner, the quantity of alleged contraband recovered from the petitioner, the quantum of sentence which the conviction may entail and the attendant facts and circumstances of the case, this Court is of the considered opinion that he does not deserve to be granted concession of regular bail, at this stage. Accordingly, the present 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.

23.08.2024
Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No