

2024.PHHC.129177



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

285

CRM-M-31012-2024 (O&M)
Date of decision: 30.09.2024

Manjot Singh @ Jotta ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Vishal Sharma (Vasudeva), 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. 55 dated 31.03.2024, registered under Section 22 of the NDPS Act, 1985 and Section 25 of the Arms Act, 1959 at Police Station Mahilpur, District Hoshiarpur.
2. Brief facts of the case relevant for the disposal of the present petition are that on 31.03.2024, the petitioner was apprehended by a police party and recovery of 150 intoxicant of *Etiron* 0.5 having salt of *Etizolam* was effected from him. One pistol along with 03 live cartridges was also recovered from the petitioner. 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 23.05.2024.

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3. Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in this case. While effecting aforesaid recovery from the petitioner, the mandatory provisions of Section 50 of the NDPS Act were not complied with. Even 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. The quantity of the alleged contraband recovered from the petitioner is of non-commercial quantity as the total weight of the Etizolam contents comes to 75 mg, whereas the threshold of commercial quantity for Etizolam is 2.5 grams. It is further argued that the petitioner is in judicial custody since 31.03.2024. 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.

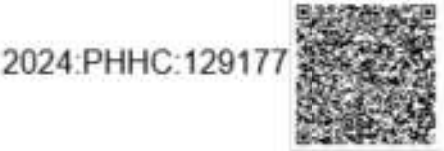
4. *Per contra*, learned State counsel, in terms of the status report which is available on record, has argued that the petitioner was apprehended by the police party on 31.03.2024 and recovery of 150 tablets of *Etiron* 0.5 having salt of *Etizolam* was effected from him. Apart from this, one country made pistol and 03 live cartridges were also recovered from him. FSL report has been received, as per which, the average weight of one tablet was 111 milligrams, which means the total weight of the recovered tablets was 16.65 grams, which falls under the commercial quantity. It is further argued that the criminal antecedents of the petitioner are not clean as he is involved in three more FIRs. The rigors of Section 37 of the NDPS Act would be attracted against him. The trial is going on at a proper pace. 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.

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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 31.03.2024 and recovery of 150 tablets of *Etiron* 0.5 having salt of *Etizolam* along with one country made pistol and 03 live cartridges was effected from him. As per FSL report, the average weight of one tablet was 111 milligrams, meaning thereby that the total weight of the recovered intoxicant tablets was $111 \times 150 = 16650$ milligrams and if the same is converted into grams, it comes to 16.65 grams. This substance finds mention at entry no. 238 ZZC of the table specifying small and commercial quantities, as per which, the quantity greater than 2.5 grams falls in commercial quantity and lesser than 0.05 gram as small. Hence, the rigors of Section 37 of the NDPS 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. 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 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.

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>