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

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CRM-M-31584-2024 (O&M)
Date of decision: 31.08.2024

Kuldeep Singh**...Petitioner**

Versus

State of Punjab**...Respondent****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. Karanjeet Singh Brar, 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. 16 dated 14.03.2024, registered under Sections 18 and 29 of the NDPS Act, 1985 at Police Station Khui Khera, District Fazilka. Prayer has also been made to grant interim bail to the petitioner for a period of 90 days for his treatment.

2. Brief facts of the case relevant for the disposal of the present petition are that on 17.08.2023, the petitioner was apprehended by a police party and recovery of 03 kgs. 500 grams of opium was effected from him. The petitioner was formally arrested at the spot. Investigation is still pending and *challan* has not been filed so far. The petitioner had moved an application for grant of regular bail before the Court of learned Judge, Special Court, Fazilka but the same had been dismissed, vide order dated 22.05.2024.

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3. Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in this case. He was neither found present at the spot nor any alleged recovery of contraband was effected from him. In fact, the contraband allegedly recovered from the petitioner was planted upon him. It is further argued that no independent witness was joined at the time of effecting alleged recovery. The mandatory provisions of the NDPS Act were not complied with. The petitioner is in judicial custody since 18.05.2024. He is not involved in any other case. The trial is likely to take time as even *challan* has not been filed so far. 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. It is also argued that since the petitioner is not maintaining good health as he is suffering from Hepatitis-C, therefore, in alternative, he may be granted concession of interim bail for a period of 90 days for his treatment.

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 has been recovered from him. FSL report has been received, as per which, the recovery effected from the petitioner was of opium. Hence, the rigors of Section 37 of the NDPS Act would be attracted in this case. There are chances of the petitioner's absconding and indulging in similar offences, if extended benefit of bail. Learned State counsel has also argued that as per report received from the jail doctor, though the petitioner is suffering from Hepatitis-B, however, as per opinion of the medicine specialist of the Civil Hospital, Faridkot,

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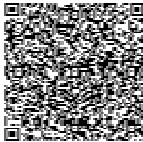


treatment for Hepatitis-B is not required and presently, the condition of the patient is stable and fit. Hence, it is urged that the petition is liable to be dismissed.

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 and recovery of 03 kgs. 500 grams of opium was effected from him, which obviously falls under the commercial quantity. Hence, the rigors of Section 37 of the NDPS Act would be attracted against the petitioner. The arguments raised by learned counsel for the petitioner with regard to lacunas 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. So far as the alternative prayer made by the petitioner for granting him interim bail for a period of 90 days on medical grounds is concerned, a perusal of the medical status report reveals that his condition has been reported to be stable. More so, as per opinion of the specialist doctor of the Civil Hospital, Faridkot, no treatment for Hepatitis-B is required. Hence, the prayer of the petitioner for grant of interim bail too cannot be entertained. 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 or interim bail, at this stage. Accordingly, the present petition is dismissed.

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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.

31.08.2024

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No