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

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CRM-M-32634-2024 (O&M)  
Date of decision: 04.09.2024

Gurbhej Singh @ Guri ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Vinok Kumar Kaushal, 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. 384 dated 21.12.2023, registered under Sections 21-C, 25 and 29 of the NDPS Act, 1985 at Police Station Special Task Force, District STF Wing SAS Nagar, Mohali.
2. Brief facts of the case relevant for the disposal of the present petition are that on 21.12.2023, on receipt of a secret information that the petitioner and co-accused Prince Pal Singh @ Prince are involved in smuggling heroin, a police party headed by SI Harpal Singh reached at the spot informed by the secret informer and apprehended the petitioner as well as co-accused and recovery of 500 grams of heroin was effected from them. They were formally arrested at the spot. After completion of necessary investigation and usual formalities, *challan* under Section 173 Cr.P.C. was presented and presently, the petitioner along with co-accused is facing trial

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for commission of aforementioned offences. He had moved an application for grant of regular bail before the trial Court but the same had been dismissed, vide order dated 03.05.2024.

3. Learned counsel for the petitioner has argued that he has been falsely implicated in this case. The alleged recovery of contraband was in fact effected from the co-accused, which was not in the knowledge of the petitioner. No independent witness was joined by the police party. The petitioner is not involved in any other case under the NDPS Act. Investigation has since been completed and *challan* has been presented before the Court. The trial is likely to take long time. The petitioner is in judicial custody since 21.12.2023. 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 in this case. Hence, the rigors of Section 37 of the NDPS Act would be attracted in this case. He was nabbed at the spot. During investigation, it has been established that the petitioner and aforesaid co-accused were running the trade of smuggling heroin at a large scale. The trial is going at a proper pace as out of 15 prosecution witnesses, 02 witnesses have been examined and the case is now fixed for 25.10.2024. While submitting that there are chances of the petitioner's absconding or involving in similar offences, if extended benefit of bail, it is urged 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. On a perusal of the record, it is revealed that the petitioner is in custody since 21.12.2023. The alleged recovery of the contraband effected from the petitioner and co-accused was of commercial quantity. He was specifically named in the secret information. There are serious and specific allegations against the petitioner. Since the quantity of the recovered contraband falls under the commercial quantity, the rigors of Section 37 of the NDPS Act would certainly be attracted in this case. There is nothing on record to suggest that there would be any undue delay in conclusion of trial. The apprehension expressed by learned State counsel that the petitioner may abscond or indulge in similar offences, if extended benefit of bail, cannot be stated to be unfounded. Keeping in view the gravity of allegations as levelled against the petitioner, the quantity of alleged contraband recovered in this case, 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.

04.09.2024

*Waseem Ansari*

(MANISHA BATRA)  
JUDGE

*Whether speaking/reasoned*

*Yes/No*

*Whether reportable*

*Yes/No*