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

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CRM-M-33875-2023 (O&M)
Date of decision: 06.09.2024

Jaspal Kumar**...Petitioner**

Versus

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

Present:- Mr. Harkirat Singh Bhogal, 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. 140 dated 06.09.2022, registered under Sections 22 and 29 of the NDPS Act, 1985 at Police Station Sadar, District Hoshiarpur.

2. Brief facts of the case relevant for the disposal of the present petition are that on 06.09.2022, co-accused Sahil was apprehended by a police party and recovery of 25 kgs. of poppy husk was effected from him. The petitioner was nominated in this case on the disclosure statement suffered by the said co-accused, wherein he disclosed that he had purchased the recovered poppy husk from the petitioner. On the basis of the said disclosure statement, the petitioner was also arrested on 06.09.2022 and

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recovery of 57 kgs. of poppy husk was effected from him. 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 along with co-accused is facing trial for commission of aforesaid mentioned offences. He had moved an application before the trial Court for grant of regular bail but the same had been dismissed, vide order dated 05.05.2023

3. Learned counsel for the petitioner has argued that he has been falsely implicated in this case and has been nominated in this case on the basis of the disclosure statement suffered by aforesaid co-accused Sahil, which is not admissible in evidence. The mandatory provisions of Section 42 of the NDPS Act were not complied with. Otherwise also, the quantity of the contraband allegedly recovered from the petitioner is marginally high than the commercial quantity. The petitioner is in judicial custody since 06.09.2022. 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. It is further argued that since the recovery of the contraband effected from the petitioner falls under the commercial quantity and he is involved in one more case under the NDPS Act, the rigors of Section 37 of the NDPS Act would be attracted against him. The trial may be expedited. There are chances of the petitioner's absconding or indulging in similar offences, if

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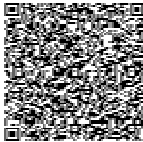


extended benefit of bail. Hence, it is urged that the petition is liable to be dismissed.

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, co-accused Sahil was apprehended by the police party on 06.09.2022 and recovery of 25 kgs. of poppy husk was effected from. On the disclosure of the said co-accused, the petitioner was arraigned as accused in this case and arrested on the same. Recovery of 57 kgs. of poppy husk was effected from him, which falls under the commercial quantity. A perusal of the custody certificate of the petitioner, which is on record, it is revealed that he is involved in one more case under the NDPS Act. The apprehension of learned State counsel that if extended benefit of bail, the petitioner may indulge in similar offences again or may abscond cannot be stated to be unfounded keeping in view his criminal antecedents. 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 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. Therefore, keeping in view the gravity of allegations as levelled against the petitioner, his criminal antecedents, 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

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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.

06.09.2024
Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No