

2024:PHHC:144863



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

280

CRM-M-34329-2024 (O&M)
Date of decision: 06.11.2024

Sandeep Kumar @ Sonu ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. G. B. S. Dhillon, 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. 168 dated 08.12.2023, registered under Sections 22 and 29 of the NDPS Act, 1985 at Police Station City Nawanshahar, District Shaheed Bhagat Singh Nagar.
2. Brief facts of the case relevant for the disposal of the present petition are that on 08.12.2023, the petitioner, while coming on a scooter, was apprehended by a police party headed by SI Manjit Lal and recovery of 450 intoxicant tablets, make Addnok-N (Buprenorphine 2 MG and Naloxone 0.5 MG) was effected from him. He was formally arrested at the spot. After completion of necessary investigation and usual formalities, *challan* was presented before the Court and presently, the petitioner 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 12.03.2024.

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3. Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in this case. In fact, the petitioner was a drug addict and he was prescribed the aforesaid drugs by the doctors. He has placed photocopies of the certain medical prescription in this regard. Even otherwise, as per Rule 66 of the NDPS Rules, 1985, 100 dosages of Buprenorphine can be kept by an individual for his personal use. Learned counsel for the petitioner has also relied upon the authority cited as Mohd. Salim vs. State of Punjab : 2015 (2) RCR (Criminal) 816, Sukhwinder Singh @ Vicky vs. State of Punjab : 2021 (1) RCR (Criminal) 177 and Charanjit Kaur vs. State of Punjab : 2022 (4) RCR (Criminal) 217, wherein the accused have been granted concession of bail in view of Rule 66 *ibid*. It is further argued that the investigation has since been completed and *challan* has been presented before the Court. The trial is likely to take time. The petitioner is in custody since 08.12.2023. No useful purpose would be served by keeping him in custody anymore. It is, thus, urged that the petition deserves to be allowed.

4. Status report has been filed by the respondent-State. It is submitted therein and learned State counsel has argued that the petitioner was apprehended by the police party on 08.12.2023 and recovery of total 450 intoxicant tablets as mentioned above was effected from him, which falls under commercial quantity. Hence, the rigors of Section 37 of the NDPS Act would be attracted against him. Trial is going on at a proper pace. It is also argued that if the petitioner is released on bail, he may abscond or indulge in the similar offences. It is, thus, argued that the petition is liable to be dismissed.

5. I have learned counsel for the parties at considerable length and have also perused the material placed on record.

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6. As per the allegations, the petitioner was apprehended by the police party on 08.12.2023 and recovery of 450 intoxicant tablets was effected from him. As per the prosecution, the quantity of the recovered contraband falls under the commercial quantity, which attracts the rigors of Section 37 of the NDPS against the petitioner, disentitling him to grant of bail. So far as the aforesaid orders as relied upon by the petitioner are concerned, it is not disputed that the accused therein were granted concession of bail in view of Rule 66 *ibid* but a perusal of the photocopies of the medical prescriptions, placed on record by the petitioner, shows that the same have been issued by a private hospital and not by any research institution or a hospital or dispensary maintained or supported by the Government or local body, as mentioned in the aforesaid rules. So far as the orders relied upon by the petitioner are concerned, it is well settled proposition of law that the orders of bail are not necessarily orders of any precedent value. Reliance in this regard can be placed upon the authority cited as ***Gajanand Agarwal vs. State of Orrisa and others : 2006(4) R.C.R.(Criminal) 311***. The apprehension expressed by learned State counsel that the petitioner, if extended benefit of bail, may abscond or indulge in similar offences cannot be stated to be unfounded at this stage. More so, the trial is going on at a proper pace as out of 16 prosecution witnesses, 03 witnesses have been examined and 08 witnesses have been given up, which means the trial is about to conclude. Therefore, keeping in view the discussion as made above, the quantity of recovered contraband, 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.

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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.

06.11.2024
Waseem Ansari

(MANISHA BATRA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>