

2024:PHHC:144814



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

273

CRM-M-34684-2024 (O&M)
Date of decision: 07.11.2024

Harjinder Singh @ Honey ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Sachin Kalia, 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. 155 dated 31.05.2023, registered under Sections 18, 21(c) and 29 of the NDPS Act, 1985 at Police Station STF Mohali, District SAS Nagar.
2. Brief facts of the case relevant for the disposal of the present petition are that on 31.05.2023, the petitioner and co-accused Nanny, who were indulged in the business of selling drugs and were sitting in a car bearing registration number HR-51-AC-3157, were apprehended by a police party headed by ASI Litesh Rai and recovery of 260 grams of heroin was effected from the petitioner, whereas 255 grams of heroin was recovered from the co-accused. Thereafter, on search of the car, 500 grams of opium was recovered from a polythene bag, which was kept on the dashboard of the car. The petitioner and the co-accused were formally arrested at the spot. After completion of necessary investigation and usual formalities, *challan* was

2024:PHHC:144814



presented before the Court and presently, the petitioner along with the 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 19.08.2023.

3. Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in this case. The story put forth by the police party is concocted one. It is also argued that the mandatory provisions of the NDPS Act were not complied with. Even otherwise, the quantity of the contraband allegedly recovered from the petitioner is marginally higher than the commercial quantity and the alleged recovery of 500 grams of opium was effected from the dashboard of the car, which cannot be attributed to the petitioner. 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 31.05.2023. No useful purpose would be served by keeping him in custody anymore. It is, thus, urged that the petition deserves to be allowed. Learned counsel for the petitioner has placed reliance upon the judgments cited as *Amritpal Singh vs. State of Punjab : 2022 (3) Law Herald 1996*, *Karandeep Singh @ Sunny vs. State of Punjab : 2021 (3) Law Herald 2230* and *Mandeep Singh alias Lakhari vs. State of Punjab : 2022 (1) Law Herald 74*, whereby the accused, from whom the contraband marginally above the commercial quantity was recovered, were granted concession of bail. He has also relied upon an order dated 25.01.2023, passed by Hon'ble Supreme Court of India in *Dheeraj Kumar Shukla vs. State of Uttar Pradesh*, whereby the accused was granted concession of bail on the ground that he was in custody for a long time and trial was to take time.

4. Status report has been filed by the respondent-State. It is submitted

2024:PHHC:144814



therein and learned State counsel has argued that the petitioner was apprehended by the police party on 31.05.2023 and recovery of total 260 grams of heroin was effected from him, apart from the recovery of 500 grams of opium, which was effected from the dashboard of the car. Since a commercial quantity of the contraband has been recovered from the petitioner, 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.

6. As per the allegations, the petitioner was apprehended by the police party on 31.05.2023 and recovery of total 260 grams of heroin was effected from him. Further, 500 grams of opium was also recovered from the dashboard of the car. The quantity of the recovered contraband obviously falls under the commercial quantity. Hence, the rigors of Section 37 of the NDPS Act would certainly be attracted against the petitioner. As regards the arguments advanced by learned counsel for the petitioner with regard to non-compliance of the mandatory provisions of the NDPS Act and other lacunas in the investigation, 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. 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. So far as the aforesaid orders as relied upon by the petitioner are concerned, it is well settled proposition of law that the

2024:PHHC:144814



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*. 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.

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.

07.11.2024
Waseem Ansari

(MANISHA BATRA)
JUDGE

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