

2024:PHHC:114326



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

226

**CRM-M-37764-2024 (O&M)
Date of decision: 03.09.2024**

Ajay Singh**...Petitioner****Versus****State of Punjab****...Respondent****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. Dhawaljeet Dutta, 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. 17 dated 22.03.2024, registered under Sections 21 and 29 of the NDPS Act, 1985 at Police Station Longowal, District Sangrur.

2. Brief facts of the case relevant for the disposal of the present petition are that on 22.03.2024, co-accused Gurraj Singh @ Happy and Raghubir Singh @ Samma were apprehended by a police party and recovery of 400 grams of heroin was effected from them. They were formally arrested at the spot. During the course of investigation, co-accused Gurraj Singh @ Happy suffered disclosure statement on 24.06.2024 to the effect that he and co-accused Raghubir Singh @ Samma had purchased the recovered contraband from the petitioner for Rs. 5 Lakhs. On the basis of this disclosure statement, the petitioner was also nominated in this case as an accused. He was arrested on 25.03.2024. After completion of necessary

2024:PHHC:114326



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 offence. He had moved an application before the trial Court for grant of regular bail but the same had been dismissed, vide order dated 16.07.2024.

3. Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in this case. The petitioner has been nominated in this case on the basis of the disclosure statement suffered by the co-accused, which is not admissible in evidence. No recovery has been effected from him. The petitioner is in judicial custody since 06.03.2023. Trial is likely to take a long time. The mandatory provisions of Sections 42, 50 and 52-A of the NDPS Act were not complied with. Investigation has since been completed and challan has been presented before the Court. The trial is likely to take a long time. The petitioner is in custody since 25.03.2024. No useful purpose would be served by keeping him in custody anymore. It is, therefore, urged that the petition deserves to be allowed.

4. *Per contra*, learned State counsel, on the basis of the status report, has vehemently opposed the prayer of the petitioner by submitting that although the petitioner has been nominated in this case on the basis of the disclosure statement suffered by the co-accused, however, during the course of investigation, the complicity of the petitioner has been prima facie established in this case. The quantity of the recovered contraband falls under the commercial quantity. Hence, the rigors of Section 37 of the NDPS Act would be attracted in this case. The petitioner does not have clean criminal antecedents as he is involved in one more case under the NDPS Act. The

2024:PHHC:114326



allegations against him are serious and specific in nature. The trial is going at a proper pace. There are chances of the petitioner's indulging in similar offences, if extended benefit of bail. 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 has been nominated in this case on the basis of the disclosure statement suffered by aforesaid co-accused Gurraj Singh @ Happy, who along with co-accused Raghubir Singh @ Samma was apprehended by the police party and recovery of 400 grams of heroin was effected from them. The petitioner was arrested on 25.03.2024. During the course of investigation, it has been found that the petitioner was the supplier of the recovered contraband to the aforesaid co-accused and his complicity in the subject crime has been *prima facie* established. Since the quantity of recovered contraband falls under the commercial quantity and the petitioner is involved in one more case under the NDPS Act, the rigors of Section 37 of the NDPS Act would certainly be attracted against him. The apprehension expressed by learned State counsel that the petitioner may indulge in similar offences, if extended benefit of bail cannot be stated to be unfounded keeping in view his criminal antecedents. There is nothing on record to show that there would be any undue delay in conclusion of trial. Keeping in view the quantity of recovered contraband, the antecedents of the petitioner, 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

2024:PHHC:114326



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.

03.09.2024
Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No