

CRM-M-38260-2024

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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

202-2.

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Date of decision:30.09.2024

BOBBY SINGH

...PETITIONER

VERSUS

STATE OF PUNJAB

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Amaninder Preet, Advocate
for the petitioner.

Ms. Amrita Garg, AAG, Punjab.

SUVIR SEHGAL J. (ORAL)

1. This is the 1st petition filed by the petitioner under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 (for short “B.N.S.S.”) for grant of regular bail in:-

FIR No.	Dated	Police Station	Sections
85	17.12.2022	Sehna, District Barnala	Section 22 of the NDPS Act, 1985, however, Section 29 of the NDPS Act was added, later on



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2. Version of the prosecution is that the above-noted FIR has been registered on the basis of secret information that one Gurpreet Singh @ Jograj, who is a drug peddler, is travelling with intoxicating tablets. Gurpreet Singh was apprehended and 1140 loose tablets were recovered from him.
3. Counsel for the petitioner submits that on chemical analysis, the recovered tablets were found to contain salt *Alprazolam* and the total weight of contraband was found to be 167.4 grams. He asserts that the petitioner has been nominated on the basis of disclosure statement of the main accused and no recovery has been effected from him. He asserts that the petitioner has been falsely implicated not only in the present criminal case, but in two other criminal cases also and is in custody since 29.04.2024.
4. Per Contra, learned State counsel, upon instructions from ASI Baldev Singh, has opposed the petition and submits that the bar under Section 37 of the NDPS Act would come into play as commercial quantity of contraband has been recovered from the co-accused. As per her instructions, out of 11 prosecution witnesses, 04 have been examined, 05 have been given up and only two witnesses remain. She could not dispute that no recovery has been effected from the petitioner. Custody certificate dated 28.09.2024 has been filed by the State, which is taken on record.
5. I have heard counsel for the parties and considered their respective submissions.



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6. As there is no recovery of any contraband from the petitioner, bar under Section 37 of the NDPS Act, would not apply. Petitioner has been in custody for the last five months and as the trial is likely to take time to conclude, this Court is of the view that he is entitled to the concession of bail.
7. Accordingly, without adverting to the merits or de-merits of the arguments addressed, petition is allowed. Petitioner is ordered to be released on bail on furnishing bail/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.
8. Any observation made hereinabove shall not be construed to be an expression of opinion on the merits of the case.

30.09.2024
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(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No