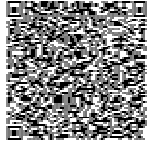


2024:PHHC:130852



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

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CRM-M-40028-2024 (O&M)
Date of decision: 01.10.2024

Kulwinder Kumar @ Bona ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Vishal Sharma, Advocate
for the petitioner.

Mr. Amandeep Singh, DAG, Punjab.

MANISHA BATRA, J. (Oral)

1. This petition has been filed by the petitioner under Section 483 of BNSS, 2023 seeking regular bail in case bearing FIR No. 24 dated 21.02.2023, registered under Section 22 of the NDPS Act, 1985 (Section 31-C of the NDPS Act added later on) at Police Station Bullowal, District Hoshiarpur.
2. Brief facts of the case relevant for the purpose of disposal of this petition are that on 21.02.2023, the petitioner was apprehended by a police party and recovery of 170 intoxicant powder and drug money of Rs.2,12,240/- along with 06 mobile phones was effected from him. The sample of the recovered contraband was sent for chemical analysis and as per FSL report, the same was found to be *Alprazolam*. 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 is facing trial for commission of aforesaid mentioned offence. He had moved an application

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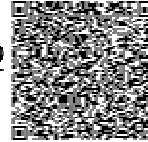


before the trial Court for grant of regular bail but the same had been dismissed, vide order dated 12.07.2023.

3. Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in this case. The alleged recovery of the intoxicant powder was in fact planted upon him. The mandatory provisions of Sections 50 and 42(A) of the NDPS Act were not followed by the police during investigation. In fact, the aforesaid money, which was shown to be drug money, was withdrawn by the father of the petitioner on 02.02.2023 for sending his another son namely Rajinder Kumar abroad. The petitioner is in custody since 21.02.2023. Investigation has since been completed and *challan* has been presented on 28.07.2023. Conclusion of trial is likely to take time. No useful purpose would be served by keeping the petitioner in custody anymore. It is, therefore, urged that the petition deserves to be allowed.

4. Status report has been filed by the respondent-State, as per which, the petitioner was apprehended by the police party on 21.02.2023 and recovery of total 170 intoxicant powder of *Alprazolam* along with drug money of Rs.2,12,240/- along with 06 mobile phones was effected from him. The petitioner is a habitual offender, which is apparent from the fact that he is involved in 09 more cases under the NDPS Act, out of which, he has been convicted in one case. He is even involved in one case under the provisions of IPC. The trial is going on at a proper pace. There are chances of the petitioner's indulging in similar offences, if extended benefit of bail. Hence, it is urged that the petition is liable to be dismissed.

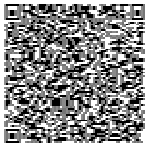
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5. I have heard learned counsel for the parties at considerable length and have also gone through the record carefully.

6. As per the allegations, on 21.02.2023, the petitioner was apprehended by the police party and 170 grams of intoxicant powder and drug money of Rs. 2,12,240/- along with 06 mobile phones and certain other articles were recovered from him. The quantity of the recovered contraband falls under the commercial quantity. Hence, the rigors of Section 37 of the NDPS Act would certainly be attracted in this case. A perusal of the status report reveals that the criminal antecedents of the petitioner are not clean as he is shown to be involved in 09 more cases under the NDPS Act, out of which, he stood convicted in one case. In view thereof, the apprehension expressed by learned State counsel that if extended benefit of bail, the petitioner may indulge in similar offences, cannot be stated to be unfounded. So far as the arguments raised by learned counsel for the petitioner with regard to lacunas in the investigation are concerned, the same cannot be looked into at this stage while deciding a petition seeking grant of regular bail. As informed by learned State counsel, out of total 12 prosecution witnesses, 02 witnesses have already been examined before the trial Court. There is nothing on record to show that there would be any undue delay in conclusion of trial. Therefore, keeping in view the criminal antecedents of the petitioner, the quantity of recovered contraband, the quantum of sentence which the conviction may entail and the attendant facts and circumstances of the case, this Court is of the considered opinion that the petitioner does not deserve to be granted the benefit of regular bail, at this stage, Accordingly, the present petition is dismissed.

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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.

01.10.2024

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No