

2024:PHHC:150511



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

215+219

1. CRM-M-42575-2024 (O&M)

Sameem	...	Petitioner
	Versus	
State of Haryana	...	Respondent

2. CRM-M-45565-2024 (O&M)

Shivam	...	Petitioner
	Versus	
State of Haryana	...	Respondent

Date of decision : 19.11.2024

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Namit Khurana, Advocate
for the petitioner in CRM-M-42575-2024.

Ms. Shivani Jaglan, Advocate
for the petitioner in CRM-M-45565-2024.

Mr. Neeraj Poswal, AAG, Haryana.

MANISHA BATRA, J. (Oral)

1. This common order shall dispose of the aforementioned two petitions as these petitions arise out of the same FIR and seek similar relief.
2. Prayer in these petitions, filed by petitioners Sameem and Shivam, respectively, is for grant of regular bail to them in case arising out of FIR No. 116 dated 19.07.2024, registered under Sections 22(C) and 29 of the NDPS Act, 1985 at Police Station Pratap Nagar, District Yamuna Nagar.
3. Brief facts of the case relevant for the disposal of the present petition are that on 19.07.2024, on receiving a secret information that one Kapil was indulged in the sale of intoxicant drugs, a barrier was laid by a police party

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headed by ASI Matloob Hussain and aforesaid Kapil was apprehended. On conducting search, a recovery of 1176 intoxicant capsules (Tramadol Hydrochloride and Acetaminophen) was effected from him. He was formally arrested at the spot. During the course of investigation, the aforesaid co-accused disclosed that he had procured the recovered contraband from the shop of petitioner Sameem. On the basis of this disclosure statement, petitioner Sameem was nominated in this case and was arrested on 31.07.2024. After the arrest of petitioner Sameem, his disclosure statement was recorded, wherein he disclosed that petitioner Shivam was the kingpin of the subject crime and he used to supply the contraband to him. Petitioner Shivam was also nominated in this case and was arrested on 03.08.2024. They had filed applications for grant of regular bail before the Court of learned Additional Sessions Judge, Yamuna Nagar but the same have been dismissed, vide orders dated 22.08.2024 and 03.09.2024, respectively.

4. Learned counsel for the petitioners have argued that the petitioners have been falsely implicated in this case. They have been nominated in this case on the basis of the disclosure statements suffered by the co-accused, which is not admissible in evidence. No independent witness was joined at the time of effecting alleged recovery from the co-accused. Even the mandatory provisions of the NDPS Act were not complied with. The story put forth by the police party is concocted one. Investigation is still going on, which means that after presentation of challan, the trial is likely to take time. The petitioners are in custody since 31.07.2024 and 03.08.2024, respectively. They are not involved in any other case under the NDPS Act. No useful purpose would be served by keeping them in custody anymore. It is, therefore, urged that the petitions

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deserve to be allowed.

5. Separate replies have been filed in both the case, which are available on record. It is submitted therein and learned State counsel has argued that although petitioners have been nominated in this case on the basis of the disclosure statement suffered by the co-accused, however, during the course of investigation, their complicity in the subject crime has been established. The quantity of the contraband recovered in this case falls under commercial quantity. Hence, the rigors of Section 37 of the NDPS Act would be attracted in this case. Investigation is still going on and after completion of the same, challan will be presented in due course. It is also argued that if the petitioners are released on bail, they may abscond or indulge in the similar offences. It is, thus, argued that the petitions are liable to be dismissed.

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

7. As per the allegations, co-accused Kapil was apprehended by the police party on 19.07.2024 and recovery of 1176 intoxicant capsules, make SPASMAXX-B having salt of Tramadol Hydrochloride, was effected from him. He had nominated petitioner Sameem as a person from whose shop, he had procured the recovered contraband and petitioner Sameem had nominated petitioner Shivam as the main supplier of the contraband. It has come during investigation that petitioner Sameem had purchased 2400 intoxicant capsules from petitioner Shivam for Rs. 12,500/-, out of which, 1176 capsules were sold to co-accused Kapil. The quantity of the recovered contraband obviously falls within the ambit of commercial quantity. Hence, the rigors of Section 37 of the NDPS Act would certainly be attracted in this case. With regard to the

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arguments advanced by learned counsel for the petitioner with regard to 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 petitions seeking grant of regular bail. The apprehension expressed by learned State counsel that the petitioners, if extended benefit of bail, may abscond or indulge in similar offences can also not be stated to be unfounded. 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 petitioners do not deserve to be granted benefit of regular bail, at this stage. Hence, the petitions are dismissed.

8. 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.

9. Let a photocopy of this order be placed on the file of the connected case.

19.11.2024
Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No