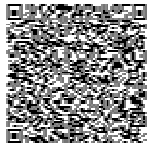


2024:PHHC:130814



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

279

CRM-M-45224-2024 (O&M)
Date of decision: 01.10.2024

Gurjeet Singh **...Petitioner**

Versus

State of Punjab **...Respondent**

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Madhur Singh, 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. 18 dated 14.04.2021, registered under Sections 22 and 29 of the NDPS Act, 1985 at Police Station Thulliwal, District Barnala.
2. Brief facts of the case relevant for the purpose of disposal of this petition are that on 14.04.2021, the petitioner was apprehended by a police party and recovery of 160 loose intoxicant tablets was effected from him. He has suffered a disclosure statement that he had bought total 1000 intoxicant tablets from one Sukhwinder Kaur for Rs. 20,000/- and thereafter, on his demarcation, 800 intoxicant tablets were further recovered. The petitioner was formally arrested. Co-accused Sukhwinder Kaur was also arrested on 16.04.2021 and 750 intoxicant tablets were recovered from her. Thereafter, on 18.04.2021, on the demarcation of the co-accused, 475 loose intoxicant tablets were also recovered. As per FSL report, the contents found in the recovered

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tablets was of *Tramadol Hydrochloride*. 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 before the trial Court for grant of regular bail but the same had been dismissed, vide order dated 16.08.2024.

3. Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in this case. The alleged recovery of the intoxicant tablets was in fact planted upon him. The mandatory provisions of Sections 50 and 52(A) of the NDPS Act were not followed by the police during investigation. The petitioner cannot be said to be in conscious possession of the commercial quantity of the contraband as only 160 intoxicant tablets were recovered from him at the first instance and it was only on his demarcation that 800 more intoxicant tablets were allegedly recovered. Hence, the rigors of Section 37 of the NDPS Act would not be attracted. He is in judicial custody since 14.04.2021. 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 14.04.2021 and recovery of total 960 intoxicant tablets were recovered from him. As per FSL report, the total weight of the recovered tablets was found to be 324.648 grams, which falls under the commercial quantity. The petitioner is habitual offender, which is apparent from the fact that he is involved in two more cases

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under the NDPS Act. 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.

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 14.04.2021, the petitioner was apprehended by the police party and 160 grams of intoxicant tablets were recovered from him. Thereafter, on his demarcation, 800 more intoxicant tablets were recovered. The petitioner was formally arrested. On the basis of the disclosure of the petitioner, one Sukhwinder Kaur was also nominated as accused in this case and was arrested on 16.04.2021. On her demarcation, 1225 intoxicant tablets were recovered. As per FSL report, the total weight of the intoxicant tablets was found to be 324.648 grams, which falls under the commercial quantity, as the threshold commercial quantity of *Tramadol Hydrochloride* is 250 grams. Hence, the rigors of Section 37 of the NDPS Act would 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 two more cases under the NDPS Act. 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 19 prosecution

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witnesses, 07 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.

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

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