

2024:PHHC:100272



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

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CRM-M-48169-2023 (O&M)
Date of decision: 06.08.2024

Baljit Ram @ Bagga ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. P. S. Sekhon, 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. 47 dated 23.03.2023, registered under Sections 22-C of the NDPS Act, 1985 at Police Station Kabarwala, District Sri Muktsar Sahib.
2. Brief facts of the case relevant for the disposal of the present petition are that on 23.03.2023, the petitioner was apprehended by a police party and recovery of 50 tablets of Apiz 0.5 (Etizolam) was effected from him. The petitioner was formally arrested at the spot. 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 19.05.2023.

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3. Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in this case. The provisions of Section 50 of the NDPS Act were not properly complied with. No independent witness was joined at the time of effecting alleged recovery from the petitioner. The story put forth by the police party is concocted one. It is also argued that the medical condition of the petitioner is not good as he is suffering from acute depression and needs proper medical attention for his treatment, which is not adequately available in jail. He is in judicial custody since 23.03.2023.. The trial is likely to take a long time. 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 has argued that the petitioner was apprehended by the police party on 23.03.2023 and recovery of 50 intoxicant tablets, which falls under the commercial quantity, was effected from him. During the course of recovery and further investigation, proper procedure as prescribed under the Act was followed. The petitioner is a habitual offender as he is involved in two more FIRs under the NDPS Act. Hence, the rigors of Section 37 of the NDPS Act would be attracted against him. As per medical report submitted by the Medical Officer, District Jail, Sri Muktsar Sahib, the present medical condition of the petitioner is stable. Trial may be expedited. It is also argued that if the petitioner is released on bail, he may abscond or tamper with the prosecution evidence. 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. The petitioner was apprehended by the police party on 23.03.2023

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and recovery of 50 intoxicant tablets, namely Apiz 0.5 (Etizolam), was effected from him, which falls under the commercial quantity. The petitioner is shown to be involved in two more FIRs under the NDPS Act. As regards the arguments advanced by learned counsel for the petitioner with regard to non-compliance of the statutory provisions of the Act during investigation by the police party, the same have direct bearing on the merits of the case, which cannot be looked into at this stage while deciding a bail petition filed under Section 439 of Cr.P.C. A perusal of the report of the Medical Officer of the jail concerned shows that though the petitioner is having some medical problems of headache, insomnia, anxiety and depressive illness but he has been provided proper medical treatment at GGS Govt. Medical Hospital, Farikot and presently, his medical condition is stable, conscious and he is well oriented to time, place and person. There is nothing on record to show that there would be any undue delay in conclusion of trial. Keeping in view the discussion as made above, the quantity of recovered contraband, the antecedents of the petitioniner , 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 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.

06.08.2024

Waseem Ansari

Whether speaking/reasoned

Whether reportable

(MANISHA BATRA)
JUDGE

Yes/No

Yes/No