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

279

CRM-M-47482-2024 (O&M)
Date of decision: 24.09.2024

Ajay @ Golu ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Vikas Bishnoi, Advocate
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

MANISHA BATRA, J. (Oral)

1. The instant one is the second petition that has been filed for grant of regular bail to the petitioner in FIR No. 215 dated 09.06.2023, registered under Sections 22-C and 27-A (added later on) of the NDPS Act, 1985 at Police Station Bhuna, District Fatehabad.
2. Brief facts of the case relevant for the disposal of the present petition are that on 09.06.2023, the petitioner was apprehended by a police party headed by ASI Kuldeep Singh and recovery of 600 intoxicant tablets make NRX Tramadol Prolonged Release Tablets 100 mg was effected and on weighing the same, the total weight of the tablets was found to be 296 grams. The petitioner was formally arrested at the spot. After completion of necessary investigation and usual formalities, *challan* under Section 173 Cr.P.C. was presented and presently, the petitioner is facing trial for commission of aforementioned offences. The first petition of the petitioner

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seeking grant of regular bail, bearing number **CRM-M-2746-2024**, was dismissed by this Court on 16.07.2024. The operative part of the order reads as under:

“6. On a perusal of the record, it reveals that the petitioner is in custody since 09.06.2023. As per prosecution, the total weight of the recovered intoxicant tablets was found to be 296 grams, which obviously falls under the commercial quantity as the threshold quantity for the said contraband is 250 grams. So far as the plea of the petitioner that co-accused Balwan has been granted concession of anticipatory bail by this Court is concerned, it is worth noticing that he was named by the accused and no subsequent recovery was effected from him. There are serious and specific allegations against the petitioner. There is nothing on record to suggest that there would be any undue delay in conclusion of trial. Keeping in view the gravity of allegations as levelled against the petitioner, the quantity of alleged contraband recovered from the petitioner, 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 he does not deserve to be granted concession of regular bail, at this stage. Accordingly, the present petition is dismissed. The petitioner is directed to surrender before the jail authorities on or before 22.07.2024.”

3. The petitioner was on interim bail. However, in compliance with the aforesaid direction, the petitioner had surrendered before the jail authorities on 22.07.2024 and is in custody since then.

4. Learned counsel for the petitioner has submitted that the first

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petition of the petitioner had been dismissed by this Court on the ground that a commercial quantity of the contraband was recovered from him. However, as per FSL report, the total quantity of the intoxicant tablets allegedly recovered from the petitioner was only 228 grams, which falls under non-commercial quantity. It is further argued that the petitioner is not involved in any other case under the NDPS Act and has clean antecedents. He is in custody since 22.07.2024. Co-accused Balwan has been granted concession of anticipatory bail by this Court, vide order dated 21.12.2023 passed in **CRM-M-44016-2023**. Trial is likely to take long time. Therefore, it is urged that the petition deserves to be allowed and the petitioner deserves to be granted benefit of regular bail.

5. *Per contra*, learned State counsel has opposed the prayer of the petitioner. However, it is not disputed that the quantity of the contraband allegedly recovered from the petitioner falls under non-commercial quantity. A perusal of the status report shows that it is admitted by the prosecution that as per FSL report, the quantity of the recovered contraband was of non-commercial but in the status report, filed by the respondent-State at the time of disposal of the first petition of the petitioner, it was inadvertently mentioned that the quantity of the contraband was of commercial quantity.

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

7. In compliance with the aforesaid order, the petitioner had surrendered before the jail authorities on 22.07.2024 and is in custody since then. The very basis for dismissal of the first petition of the petitioner was that the recovered contraband was of commercial quantity as it was so

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claimed by the respondent-State. However, now it is clear from the FSL report and it has also been admitted by the respondent-State that the recovered contraband was of non-commercial quantity. Investigation has since been completed and challan has been presented. Trial is likely to take time. Keeping in view the aforesaid facts and circumstances, this Court is of the considered opinion that no useful purpose would be served by keeping the petitioner in custody anymore. Accordingly, the present petition is allowed and the petitioner is ordered to be released on regular bail, subject to his furnishing personal/surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.

8. 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.

24.09.2024

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No