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

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CRM-M-58430-2023 (O&M)
Date of decision: 25.07.2024

Jagboot Singh @ Jagroop Singh @ Buta**...Petitioner**

Versus

State of Punjab**...Respondent****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. Siddharth Sharma, 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. 51 dated 14.07.2020, registered under Section 22 of the NDPS Act, 1985 at Police Station Bholath, District Kapurthala.

2. Brief facts of the case relevant for the disposal of the present petition are that on 14.07.2020, ASI Parveen Singh, who was on patrolling duty along with other police officials, noticed a young man, who was walking on the paved road holding a polythene bag in his right hand and on seeing the police party, he became perplexed and threw the said polythene bag. He tried to run away but was apprehended by the police party. On inquiry, he disclosed his name as 'Jagrup Singh @ Buta' i.e. the present petitioner. He was asked about the said bag, to which, the petitioner replied

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that it was containing narcotic pills. Thereafter, a second Investigating Officer i.e. SI Raghbir Singh reached at the spot. The search of the said bag was conducted and recovery of 1020 intoxicant tablets containing 121.380 grams of *Alprazolam* was effected from the same. Independent witness was tried to be joined in the investigation but none came forward. 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. He had moved an application for grant of regular bail before the trial Court but the same had been dismissed, vide order dated 04.08.2023.

3. Learned counsel for the petitioner has argued that he has been falsely implicated in this case. The prosecution story is highly improbable. There was non-compliance of the provisions of Section 50 of the Act. Even no independent witness was joined at the time of effecting recovery of alleged contraband. The petitioner is in custody since 13.03.2023. The investigation has since been completed and *challan* has been presented. The trial is likely to take a long time. Therefore, it is urged that the petition deserves to be allowed and the petitioner deserves to be granted benefit of regular bail. To fortify his argument, learned counsel for the petitioner has placed reliance upon the authorities cited as *Arif Khan @ Agha Khan vs. State of Uttarakhand : AIR 2018 Supreme Court 2123*, *State of Delhi vs. Ram Avtar : 2011Crl. L. J. 4231*, *Vijaysinh Chandubha Jadeja vs. State of Gujarat : 2011 Crl. L. J. 680*, *Sachin Arora vs. State of Govt. of NCT of Delhi, Bail Appln. No. 1661/2022, decided on 17.08.2023*, *Sunil vs. State*

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of Haryana, CRM-M-28067-2021, decided on 02.11.2021 as well as Raghu @ Rahul Rajput Thakur, Bail Appln No. 2430 of 2021, decided on 14.10.2022.

4. *Per contra*, learned State counsel, on the basis of the status report, has vehemently argued that the petitioner is not entitled to get benefit of bail as a commercial quantity of the contraband was recovered from him. He was nabbed at the spot. His story regarding false implication and plantation of the recovered contraband is concocted one. The rigors of Section 37 of the Act are attracted in this case. He was granted concession of interim bail. However, on receipt of the FSL report, it was found that the quantity of the recovered contraband falls under the commercial quantity and the interim bail was vacated on 17.08.2020. Thereafter, the absented himself before the trial Court and was declared a proclaimed offender on 10.03.2023. He was again arrested on 13.03.2023 and since then he is custody. If extended benefit of bail, the petitioner may abscond again. Hence, it is urged 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. As per allegations in the FIR, the petitioner was apprehended by the police party and recovery of 1020 intoxicant tablets having salt of *Alprazolam* was effected from him. The quantity of the recovered contraband falls under the commercial quantity. He was granted concession of interim bail awaiting the FSL report but on receipt of the same, he had absented himself from the Court proceedings for about 03 years and was re-arrested only on 13.03.2023. Since the recovery involved in this case falls

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under the commercial quantity, therefore, the rigors of Section 37 of the Act would certainly be attracted to this case. The ratio of law as laid down in afore-cited judgments are not disputed but the question of discrepancies in the investigation cannot be looked into at this stage while deciding an application filed under Section 439 of Cr.P.C. More so, the petitioner had been absconding for a period of about 03 years from the process of law and had been declared a proclaimed offender in the meanwhile. Hence, the apprehension expressed by learned State counsel that he may abscond again, if extended benefit of bail, cannot be stated to be unfounded one. Keeping in view the gravity of the allegations as levelled against him, the quantity of the 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 is not entitled to get benefit of regular bail, at this stage. Hence, the 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.

25.07.2024

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No