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

281

CRM-M-57968-2023 (O&M)
Date of decision: 30.07.2024

Rajender Parsad ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Mohammad Arshad, Advocate
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

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. 289 dated 19.09.2022, registered under Section 20(2)(C) of the NDPS Act, 1985 at Police Station Dhouj, District Faridabad.
2. Brief facts of the case relevant for the disposal of the present petition are that on 19.09.2022, when SI Jalaluddin along with other police officials was present at Dhouj Bus stand in connection with patrolling and crime detection, he received a secret information that the petitioner is indulged in supply of *Ganja* and was coming along with the same in his car bearing registration number UP-13-N-6100 and if a barrier is laid, he can be apprehended along with the contraband. Thereafter, on the signal of secret informer, the petitioner was apprehended by the police party. He was served with notice under Section 50 NDPS Act, to which, he opted to be searched in presence of a Gazetted Officer. A notice was also sent under section 42 of

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NDPS Act to the concerned SHO whereupon, Shri Sushil Kumar, XEN, MCF was informed on his mobile phone, who came after some time. Thereafter, search of the car was carried out and recovery of 123 Kgs. 330 grams of *Ganja* was effected. 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 offences. He had moved an application before the trial Court for grant of regular bail but the same had been dismissed, vide order dated 04.10.2023.

3. Learned counsel for the petitioner has argued that he has been falsely implicated in this case. The petitioner is in judicial custody since 19.09.2022. The contraband allegedly recovered from the aforesaid vehicle was planted by the police officials. The provisions of Sections 42 and 50 of the NDPS Act were not properly complied with while effecting recovery of alleged contraband. Even no independent witness was joined. The investigation has since been completed and challan has been presented. The trial is likely to take time. Therefore, it is urged that the petition deserves to be allowed and the petitioner deserves to be granted benefit of regular bail.

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. FSL report has been received, which clearly reveals that the recovered contraband was *Ganja*. The trial may be expedited. There are chances of the petitioner's indulging in similar offence, if

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extended benefit of bail. The rigors of Section 37 of the NDPS Act would be attracted in this case as a commercial quantity of contraband was recovered from the petitioner. 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. On a perusal of the record, it reveals that the petitioner is in custody since 19.09.202. The alleged recovery effected from the petitioner was of commercial quantity. He was named in the secret information. There are serious and specific allegations against the petitioner. Since a commercial quantity of contraband was recovered from him, the rigors of Section 37 of the NDPS Act are certainly attracted in this case, which create a bar for grant of regular bail to 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.

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.

30.07.2024

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No