

2025:PHHC:083184



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

316

CRM-M-4554-2025 (O&M)

Date of decision: 10.07.2025

Rajesh**...Petitioner****Versus****State of Haryana****...Respondent****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. Manoj Tanwar, Advocate
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

MANISHA BATRA, J. (Oral)

1. Prayer in this petition, filed under Section 439 of Cr.P.C., is for grant of regular bail to the petitioner in FIR No. 121 dated 20.02.2024, registered under Sections 20(b)(ii)C and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (*for short 'NDPS Act'*) at Police Station City Rohtak, District Rohtak.

2. Brief facts of the case relevant for the disposal of the present petition are that on 20.02.2024, the petitioner and his wife Asha were apprehended by a police party and recovery of 1.25 kg. of Charas was effected from a bag which the petitioner was holding. Both of them were 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 along with the co-accused is facing trial for commission of aforementioned offence. He had moved an application before the trial Court for grant of regular bail but the same had been dismissed, vide order dated 18.12.2024.

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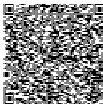
3. Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in this case. Proper procedure as laid down in law was not followed by the police. Even no independent witness was joined at the time of effecting alleged recovery from the petitioner. The story put forth by the police party is concocted one. Even otherwise, investigation has since been completed and *challan* has been filed. Conclusion of trial is likely to take time. The petitioner is in custody since 20.02.2024. No useful purpose would be served by keeping him in custody anymore. Co-accused Asha has already been granted concession of regular bail by this Court, vide order dated 21.11.2024 passed in CRM-M-45620-2024. On the ground of parity, the petitioner too deserves the same benefit. It is, therefore, urged that the petition deserves to be allowed.

4. Custody certificate of the petitioner has been filed by the respondent-State. Learned Assistant Advocate General, Haryana has argued that the petitioner is not entitled to get benefit of bail as he was apprehended at the spot and commercial quantity of Charas was recovered from him. Since the quantity of the recovered contraband falls within the commercial quantity, the rigors of Section 37 of the NDPS Act would be attracted against him. He is involved in one more case of similar nature. 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 heard learned counsel for the parties at considerable length and have also perused the material placed on record.

6. The petitioner along with co-accused Asha, who is his wife, was apprehended by the police party on 20.02.2024 and recovery of 1.25 kg. of

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Charas was effected from a bag which he was holding at that time. The quantity of the recovered contraband obviously falls under the commercial quantity. Hence, the rigors of Section 37 of the NDPS Act would certainly be attracted against him. The criminal antecedents of the petitioner are also not clean as he is shown to be involved in one more case under NDPS Act. As regards the arguments advanced by learned counsel for the petitioner with regard to non-compliance of the statutory provisions of the NDPS 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. The apprehension expressed by learned State counsel that if the petitioner is released on bail, he can abscond or indulge in similar offences, can also not be stated to be unfounded. The trial is going on and there is nothing on record to suggest that there would be any undue delay in conclusion of the same. The case of co-accused Asha cannot be stated to be at par with that of the petitioner as no recovery of any contraband was effected from her. Keeping in view the aforesaid facts and circumstances, the quantity of recovered contraband, 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.

10.07.2025

Wasim Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No