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

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CRM-M-5816-2025 (O&M)

Date of decision: 24.03.2025

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

Present:- Mr. Pawandeep Singh, Advocate
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

MANISHA BATRA, J. (Oral)

1. This petition has been filed by the petitioner under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 seeking regular bail in case bearing FIR No. 74 dated 05.03.2024, registered under Section 20(b)(ii)(C) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (*for short 'NDPS Act'*) at Police Station City Sohana, District Gurugram.

2. Brief facts of the case relevant for the purpose of disposal of this petition are that on 05.03.2024, on the basis of a secret information, co-accused Tasleem and Mukeem, while coming on a truck bearing registration number HR-38-AC-7912, were apprehended by a police party headed by ASI Sandeep and on search of the vehicle, recovery of 549 kgs. of *Ganja* was effected. On interrogation, the co-accused disclosed that the vehicle belonged to the present petitioner and it was on his asking that they were bringing the contraband from Vishakhapatnam. On the basis of the same, the petitioner was nominated in this case and was arrested on

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06.03.2024. After completion of necessary investigation and usual formalities, *challan* 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 learned trial Court for grant of regular bail but the same had been dismissed, vide order dated 08.01.2025.

3. Learned senior counsel for the petitioner has argued that the petitioner has been falsely implicated in this case. The aforesaid vehicle belongs to one Sher Mohd. and the petitioner is not the owner of the same. The petitioner was not found at the spot and has been involved in this case on the basis of the disclosure statement made by the aforesaid co-accused, which is not admissible in evidence. It is further argued that no subsequent recovery was effected from the petitioner. Investigation has since been completed and *challan* has been presented. The petitioner is in judicial custody since 06.03.2024. The trial is likely to take time. No useful purpose would be served by keeping the petitioner in custody anymore. Co-accused Shamim has already been granted concession of regular bail by this Court, vide order dated 09.12.2024 passed in CRM-M-54976-2024. On the grounds of parity, the petitioner too deserves the same benefit. It is, therefore, urged that the petition deserves to be allowed.

4. Status report has been filed by the respondent-State. It is submitted therein and learned Assistant Advocate General, Haryana has argued that though the petitioner was nominated in this case on the basis of the disclosure suffered by the co-accused but during the course of investigation, his involvement in the subject crime was duly established. The

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petitioner was actively involved in commission of subject crime and was present at Vishakhapatnam when the truck was loaded with the contraband. He has got created a hidden cabin in the vehicle for transporting the contraband. The case of co-accused Shamim is not at par with that of the present petitioner. Trial is going on at proper pace. It is also argued that if the petitioner is released on bail, he can abscond or indulge in similar offences. 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 has been nominated in this case on the basis of the disclosure statements suffered by co-accused Tasleem and Mukeem, who were apprehended at the spot with the aforesaid truck loaded with the contraband. The allegations against the petitioner are that the truck in question belonged to him and he had hired the aforesaid co-accused to transport the contraband from Vishakhapatnam in the said truck. It has also come in investigation that he was even present at Vishakhapatnam and on his instructions, the truck was loaded with the contraband and that he had purchased the recovered contraband from co-accused Prashant by paying him an amount of Rs. 1,50,000/- in advance and had paid him a total amount of Rs.6,02,500/- through 45 transactions. The allegations against him are quite serious. The petitioner is shown to be involved in one more criminal case, which is registered against him under Section 395 of IPC. So far as the claim of the petitioner with co-accused Shamim is concerned, his case cannot be stated to be at par with him as the name of the petitioner had surfaced in the

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disclosure statements of the co-accused, who were apprehended at the spot, with specific allegations, whereas co-accused Shamim was implicated by the petitioner himself. Trial is going on and there is nothing on record to suggest that there would be any undue delay in the same. The apprehension expressed by learned State counsel that the petitioner, if extended benefit of bail, may abscond or indulge in similar offences can also not be stated to be unfounded. Keeping in view the discussion as made above, the quantity of recovered contraband, the role attributed to the petitioner, 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.

24.03.2025

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No