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

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CRM-M-8342-2025 (O&M)
Date of decision : 19.02.2025

Varinder Kumar**...Petitioner****Versus****State of Punjab****...Respondent****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. Deepak Arora, Advocate
for the petitioners.

Ms. Swati Batra, Deputy Advocate General, Punjab.

MANISHA BATRA, J. (Oral)

1. The instant petition has been filed by the petitioner seeking regular bail in case bearing FIR No. 16 dated 24.04.2023, registered under Sections 21(c), 27(A), 23, 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (*for short 'NDPS Act'*) Police Station Dorangla, District Gurdaspur.

2. Brief facts of the case relevant for the purpose of disposal of present petition are that the aforementioned FIR was registered on 24.04.2023 on the basis of the statement recorded by complainant Prabhjinder Singh alleging therein that on the same day, when he was getting the crops cut in his fields, he noticed a yellow colour tape packing on the string of the iron paneling therein. He immediately informed the SHO of the police station concerned. A police party reached at the spot and on checking the said packet, it was found to be containing 02 kgs. 400 grams of heroin. During the course of investigation, supplementary statement of the complainant was recorded,

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wherein he stated that petitioner Varinder Kumar and co-accused Arun Kumar and Harpal Singh were searching for the said packet in his fields on 25.04.2023. On the basis of the same, the petitioner and aforesaid co-accused were nominated as accused in this case and were arrested on 26.04.2023 and drug money of Rs. 2,20,000/- was recovered from the petitioner and co-accused Harpal Singh. After completion of necessary investigation and usual formalities, *challan* was presented in the Court and presently, the petitioner along with co-accused is facing trial for commission of aforesaid mentioned offences. The petitioner had moved application before the learned trial Court for grant of regular bail but the same had been dismissed, vide order dated 03.02.2025.

3. Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in this case. He was initially not named in the FIR but later on, on the basis of the supplementary statement made by the complainant, wherein he stated that the petitioner and aforesaid co-accused were searching for the said packets in his fields; the petitioner as well as the co-accused were nominated in this case. However, a perusal of the sworn deposition of the complainant, recorded before the learned trial Court, would show that he has denied making any supplementary statement before the police naming the petitioner and co-accused, who were allegedly searching for the packet containing recovered contraband and instead, he has stated that the police had taken his signatures on a blank paper and has not identified the petitioner as accused person. Investigation has since been completed and *challan* has been presented before the Court. The trial is likely to take time.

No useful purpose would be served by keeping the petitioners in custody

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anymore. Similarly situated co-accused Arun Kumar and Harpal Singh have already been granted concession of regular bail by this Court, vide common order dated 16.01.2025 passed in CRM-M-7541 & 26924-2024. On the grounds of parity, the petitioner too deserves the same benefit. Hence, it is argued that the present petition deserves to be allowed and the petitioner deserves to be granted concession of regular bail.

4. Custody certificate of the petitioner has been filed by the respondent-State. It is submitted therein and learned Deputy Advocate General, Punjab has argued that there are serious allegations against the petitioner as he along with co-accused was involved in cross-border smuggling of contraband. Drug money of Rs. 2,20,000/- was recovered from petitioner and co-accused Harpal Singh. The trial may be expedited. The petitioners may abscond or indulge in drug smuggling again, if extended benefit of bail. Hence, it is urged that the petitions are liable to be dismissed.

5. I have heard learned counsel for the parties at considerable length and have also gone through the record carefully.

6. As per the allegations, the present FIR was registered at the instance of complainant Prabhjinder Singh as he found a packet containing aforesaid contraband lying in his fields. The petitioner was nominated in this case on the basis of the supplementary statement made by the complainant to the effect that on 25.04.2023, he noticed that petitioner and aforesaid co-accused were searching for the said packet, which was found containing contraband. However, no subsequent recovery is shown to have been effected from them. The only basis for implication of the petitioner in the present case is the supplementary statement made by the complainant. The petitioner has

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placed on record a copy of the sworn deposition of the complainant, who appeared as PW-1, wherein he has totally exonerated the petitioner and co-accused by not identifying them. Rather, he has stated that he had not made any supplementary statement before the police naming the petitioner and co-accused. The complainant was then declared hostile. The petitioner is in custody since 26.04.2023. Investigation has since been completed and *challan* has been presented. The trial is likely to take time. Co-accused have already been granted concession of regular bail by this Court, as mentioned above. Keeping in view the discussion as made above, the nature of evidence which has come forth so far, the period of incarceration of the petitioner, I am of the considered opinion that no useful purpose would be served by keeping him in custody anymore. Accordingly, the present petition is allowed. 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. However, it will be open for the prosecution to apply for cancellation of bail in case the petitioner is found involved in any other subsequent case.

7. It is made clear that any observation made herein above is only for the purpose of deciding the present petitions and the same shall have no bearing on the merits of the case.

19.02.2025
Waseem Ansari

(MANISHA BATRA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>

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