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

303

CRM-M-10334-2025 (O&M)
Date of decision: 25.03.2025

Sagar Thakur

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Dhruv Gupta, Advocate
for the petitioner.

Ms. Swati Batra, Deputy Advocate General, Punjab.

MANISHA BATRA, J. (Oral)

1. The instant one is the second petition that has been filed by the petitioner for grant of regular bail to the petitioner in FIR No. 192 dated 31.12.2023, registered under Section 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (*for short 'NDPS Act'*) at Police Station Doraha, District Ludhiana. The first petition, bearing **CRM-M-31856-2024**, was dismissed as withdrawn on 12.09.2024.

2. Brief facts of the case relevant for the purpose of disposal of this petition are that on 31.12.2023, the petitioner along with co-accused Akashdeep Singh and Abhishek Sethi, while coming on a motorcycle bearing registration number PB-10-FJ-5421, was apprehended by the police party and recovery of 260 grams of heroin was effected from them. They were formally arrested at the spot. After completion of necessary investigation and usual formalities, *challan* was presented before the Court concerned and presently, the petitioner along with the

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co-accused is facing trial for commission of aforesaid mentioned offence.

3. Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in this case. The alleged recovery was not effected from the conscious possession of the petitioner as the same was found underneath the seat of the motorcycle. He is not even the registered owner of the aforesaid vehicle. No contraband has been recovered from the petitioner, except a mobile phone. He is not involved in any other case under the NDPS Act. The mandatory provisions of the NDPS Act were not complied with. Even otherwise, challan has been filed and the trial is likely to take time. The petitioner is in custody since 31.12.2023. No useful purpose would be served by keeping him in custody anymore. 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 Deputy Advocate General, Punjab has argued that the petitioner is not entitled to get benefit of bail as he was apprehended by the police party on 31.12.2023 along with the above named co-accused and recovery of 260 grams of heroin was effected from them, which falls under the commercial quantity. During the course of recovery and further investigation, proper procedure as prescribed under the NDPS Act was followed. It is submitted that since a commercial quantity of the contraband has been recovered from the petitioner and co-accused, the rigors of Section 37 of the NDPS Act would be attracted in this case. The trial is going at a proper pace and the same is at its fag end. It is also argued that if the petitioner is released on bail, he may abscond or indulge in the similar offences. 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

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have also perused the material placed on record.

6. As per the allegations, the petitioner was apprehended by the police party on 31.12.2023 along with aforesaid co-accused and recovery of 260 grams of heroin was effected from them, which falls under the commercial quantity. Hence, the rigors of Section 37 of the NDPS Act would certainly be attracted against the petitioner. 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 483 of BNSS. Even otherwise, the trial is at its fag end and there is nothing on record to show that there would be any undue delay in conclusion of trial. The apprehension expressed by learned Deputy Advocate General, Punjab 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 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.

25.03.2025

Waseem Ansari

(MANISHA BATRA)
JUDGE

*Whether speaking/reasoned
Whether reportable*

*Yes/No
Yes/No*