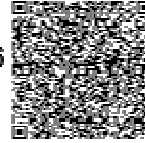


2025:PHHC:051966



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

224

CRM-M-10089-2025 (O&M)

Reserved on : 22.04.2025

Pronounced on : 24.04.2025

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

Present:- Mr. Ruhani Chadha, Advocate
for the petitioner.

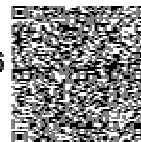
Mrs. Sheenu Sura, DAG, Haryana.

MANISHA BATRA, J.

1. The instant one is the second petition that has been filed by the petitioner for grant of regular bail in case arising out of FIR No. 359 dated 11.05.2024, registered under Sections 18, 27-A and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act') at Police Station Shahabad, District Kurukshetra. The first petition, bearing number **CRM-M-34893-2024**, was dismissed as withdrawn on 28.08.2024.

2. Brief facts of the case relevant for the disposal of the present petition are that on 11.05.2024, on the basis of a secret information, co-accused Himanshu @ Hemant @ Himmat was apprehended by a police party headed by Inspector Mohan Lal and recovery of 04 kgs. 600 grams of opium was effected from him. Upon interrogation, he disclosed that the recovered contraband was supplied to him by one Ashraf Shah, who was arrested on 17.05.2024. Upon interrogation, he disclosed that he used to buy

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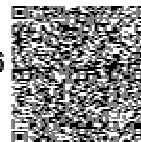


opium from the present petitioner. On the basis of the same, the petitioner was nominated as an accused in this case and was arrested on 22.05.2024. After completion of necessary investigation and usual formalities, *challan* was presented in the Court and presently, the petitioner along with the co-accused is facing trial for commission of aforesaid offence. He had moved an application before the trial Court for grant of regular bail but the same had been dismissed, vide order dated 10.07.2024.

3. Learned counsel for the petitioner has argued that he has been falsely implicated in this case. No recovery has been effected from the petitioner. He has been nominated in this case on the basis of the disclosure statement suffered by the co-accused, which is not admissible in evidence against him. There is nothing on record to connect the petitioner with the subject crime. Mandatory provisions of Sections 42 and 50 of the NDPS Act were not properly complied with. Even otherwise, investigation has since been completed and *challan* has been presented. However, no witness has been examined so far, which shows that the conclusion of trial is likely to take time. The petitioner is in judicial custody since 22.05.2024. He is not involved in any other case and has clean criminal antecedents. No useful purpose would be served by keeping him in custody anymore. Therefore, it is urged that the petition deserves to be allowed and the petitioner deserves to be released on regular bail.

4. Reply has been filed by the respondent-State. It is submitted therein and learned Deputy Advocate General, Haryana has argued that although the petitioner has been nominated in this case on the basis of the disclosure statement suffered by the co-accused but during the course of

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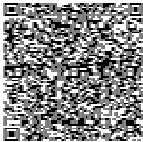


investigation, his complicity in the subject offence has been duly established. The petitioner used to supply contraband to co-accused Ashraf Shah. The call details record reveals that there were in touch with each other over phone. His story regarding false implication is concocted one. Trial has commenced and the same would be concluded in due course. Hence, it is urged 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 has been nominated in this case on the basis of the disclosure statement suffered by co-accused, who himself was named by co-accused Himanshu @ Hemant @ Himmat, who was apprehended at the spot on 11.05.2024 and from whom, recovery of aforesaid contraband was effected. The allegations against the petitioner are that he used to supply the contraband to co-accused Ashraf Shah, who in turn would supply the same to co-accused Himanshu. It is an admitted position that subsequent to arrest of the petitioner, no recovery of any contraband had been effected from him. He is not shown to be involved in any other case. So far as some calls exchanged between the petitioner and co-accused Ashraf Shah are concerned, it is well established that mere call details, without the transcript of the conversations exchanged between the accused persons, would not be considered to be corroborative material in absence of substantive material found against them. Investigation has since been concluded and *challan* has been presented. As per reply itself, no witness has been examined so far. Hence, it is clear that trial is likely to take time. The petitioner is in custody since 22.05.2024. Keeping in view the aforesaid facts and circumstances, I

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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 petition and the same shall have no bearing on the merits of the case.

24.04.2025
Wassem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No