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

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CRM-M-25732-2024 (O&M)
Date of decision: 17.02.2025

Anil Kumar ...Petitioner

Versus
State of Punjab ...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Sukhveer Singh Killianwali, Advocate
for the petitioner.

Ms. Himani Arora, AAG, Punjab.

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 case bearing FIR No. 150 dated 12.09.2023, registered under Section 22(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (*for short 'NDPS Act'*) at Police Station City Sri Muktsar Sahib.
2. Brief facts of the case relevant for the disposal of the present petition are that on 11.09.2023, the petitioner was apprehended by a police party headed by ASI Baldev Singh and recovery of 40 intoxicant tablets (Etizolam) was effected from him. He was formally arrested at the spot. After completion of necessary investigation and usual formalities, *challan* was presented in the Court and presently, the petitioner is facing trial for commission of aforementioned offence. He had moved an application for grant of regular bail before the learned trial Court but the same had been dismissed, vide order dated 01.05.2024.

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3. Learned counsel for the petitioner has argued that he has been falsely implicated in this case. The mandatory provisions of Section 50 of the NDPS Act were not complied with at the time of effecting alleged recovery from the petitioner. In fact, he has been involved in this case due to party fraction in the village. The petitioner is in judicial custody since 12.09.2023. Investigation has since been completed and *challan* has been presented. The trial is likely to take time. No useful purpose would be served by keeping him in custody anymore as he is no more required for any custodial interrogation. Therefore, it is urged that the petition deserves to be allowed and the petitioner deserves to be granted benefit of regular bail.

4. Reply has already been filed by the respondent-State. It is submitted therein and learned Assistant Advocate General, Punjab has argued that the petitioner was apprehended at the spot and recovery of 40 tablets of Etizolam was effected from him. Proper procedure as prescribe under law was followed during investigation. His story regarding false implication is concocted one. The quantity of the said contraband falls within the commercial quantity. Hence, the rigors of Section 37 of the NDPS Act would be attracted against him. The trial may be expedited. If released on bail, the petitioner may abscond or indulge in similar offences. 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. As per the allegations, the petitioner was apprehended by the police party on 11.09.2023 and recovery of 40 tablets of Etizolam was effected from him. The quantity of the contraband recovered in this case admittedly falls within the commercial quantity. Hence, the rigors of Section 37 of the NDPS

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Act would certainly be attracted against the petitioner as nothing has been placed on record before this Court so as to believe that he did not commit the subject offence or in case, he is released on bail, he would not commit any such or similar offence. The apprehension of learned Assistant Advocate General, Punjab that if extended benefit of bail, the petitioner may abscond or indulge in similar offences cannot be stated to be unfounded. Trial is going on and there is nothing on record to suggest that there would be any undue delay in conclusion of trial. In cases under the NDPS Act involving commercial quantity, negation of bail is the rule and its grant is an exception. Reliance in this regard can be placed upon the observations made by Hon’ble Supreme Court in authority cited as ***Narcotics Control Bureau vs. Kashif : 2024 INSC 1045***. Hence, keeping in view the gravity of allegations as levelled against the petitioner, the quantity of alleged contraband recovered from 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 he does not deserve to be granted concession of regular bail, at this stage. Accordingly, the present petition is dismissed.

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.

17.02.2025
Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No