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

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CRM-M-33507-2025 (O&M)
Date of decision: 11.08.2025

Anil Kumar

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. N. K. Banka, Advocate
for the petitioner.

Mr. Roshandeep Singh, AAG, Punjab.

MANISHA BATRA, J. (Oral)

1. The instant one is the second petition that has been filed by the petitioner under Section 439 of Cr.P.C. for grant of regular bail to him 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. The first petition, bearing number CRM-M-25732-2024, was dismissed by this Court on 17.02.2025. The operative part of the order reads as under:

“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 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

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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.”

2. Learned counsel for the petitioner has argued that the extended period of incarceration has entitled the petitioner to be released on bail. Apart from that, he has argued that in fact each tablet was containing only 0.02 grams of Etizolam and in that way, the total quantity of the recovered contraband falls much below the commercial quantity. It is also argued that the prosecution had sent only one strip containing 10 tablets for chemical examination out of total 40 tablets. Hence, the FSL report cannot be relied upon qua remaining 30 tablets.

3. Status report has been filed by the respondent-State. It is submitted therein and learned Assistant Advocate General, Punjab has argued that the previous petition filed by the petitioner was dismissed by passing a detailed order by this Court by taking into consideration the contentions raised by both

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sides. It is submitted that no new change in the circumstances has been pointed out. The mere extended period of incarceration alone is not sufficient to grant benefit of bail to the petitioner. The other arguments raised by learned counsel for the petitioner cannot be looked into at this stage. Therefore, it is urged that the petition does not deserve to be allowed.

4. I have heard learned counsel for the petitioner as well as learned State counsel at considerable length and have gone through the record carefully.

5. The previous petition filed by the petitioner for grant of regular bail had been dismissed, vide order dated 17.02.2025. The contentions raised by learned counsel for the petitioner with regard to drawing sample and taking into consideration only the weight of original salt and not the total weight of the tablets cannot be looked into by this Court as the same needs thorough appreciation of the evidence led by both the parties, which this Court is not supposed to do at this stage. It is well settled proposition of law that when successive bail applications come before the Court, the Court should be very cautious while considering the same. Successive bail applications can be entertained by the Court when some substantial change is established by the accused thereby making him entitled for grant of bail. Reference in this regard can be made to ***State of Maharashtra Vs. Captain Buddhikota Subha Rao, AIR 1989 Supreme Court, 2292***, wherein it was observed so and it was further held that the Court should not pass an order of release of an accused on bail in successive bail application merely establishing some cosmetic change between time gap of two applications. There must be some drastic change during the period between two applications. Reference can also be made to ***Kalyan Chandra Sarkar Vs. Rajesh Ranjan @ Pappu Yadav and another (2004) 7***

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SCC 528, wherein it was observed by Hon’ble Supreme Court that where the offence alleged against an accused is grave, bail cannot be granted only on the ground of long incarceration.

6. After hearing the contentions as raised by learned counsel for the petitioner, I am of the considered opinion that no substantial or drastic change from the date of dismissal of the previous petition as moved by the petitioner has been pointed out or made out from the pleas taken by the petitioner. Merely the extended/prolonged period of incarceration or examination of some material witnesses is not a ground to extend any such benefit. There are serious and specific allegations against the petitioner. The trial is also going on at a good pace and there is nothing to show that there would be any undue delay in conclusion of the same. Keeping in view the nature and gravity of the offence, in my considered opinion, it is not a fit case to enlarge the petitioner on bail, especially in view of the fact that no drastic or material change in the circumstances has been made out. In view of the discussion as made above, but without meaning to make any comment on the merits of the case, I am of the considered opinion that the petition does not deserve to be allowed. Hence, the same 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.

11.08.2025

Wassem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No