

2025:PHHC:008810



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

312

CRM-M-37186-2024 (O&M)
Date of decision: 22.01.2025

Dalip Kumar ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Chander Shekhar Sharma, Advocate
for the petitioner.

Ms. Swati Batra, Deputy Advocate General, 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 FIR No. 81 dated 05.12.2023, registered under Sections 22 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (*for short 'NDPS Act'*) at Police Station City Banga, District SBS Nagar.
2. Brief facts of the case relevant for the disposal of the present petition are that on 05.12.2023, the petitioner was apprehended by a police party headed by SI Varinder Kumar and recovery of 270 intoxicant tablets of *Etizloam* was effected from him. The petitioner was formally arrested at the spot. After completion of necessary investigation and usual formalities, *challan* under Section 173 of Cr.P.C. was presented in the Court and presently, the petitioner is facing trial for commission of aforesaid mentioned offence. He had moved an application before the learned trial Court for grant of regular bail but the same

2025:PHHC:008810



had been dismissed, vide order dated 29.01.2024.

3. Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in this case. No independent witness was joined at the time of effecting alleged recovery from the petitioner. The story put forth by the police party is concocted one. There is nothing on record to connect the petitioner with the subject crime. He is in judicial custody since 05.12.2023. The trial is likely to take time. No useful purpose would be served by keeping him in custody anymore. Even otherwise, co-accused Sukhwinder Singh @ Binda and Ankit Agrawal have already been granted concession of regular bail, vide orders 01.07.2024 and 19.07.2024, passed by this Court in CRM-M-10951-2024 and CRM-M-14012-2024, respectively. On the ground of parity, the petitioner too deserves to be extended the same benefit. It is, therefore, urged that the petition deserves to be allowed.

4. *Per contra*, learned State counsel has argued that the petitioner was apprehended by the police party on 05.12.2023 and recovery of 270 intoxicant tablets of *Etizolam* was effected from him. As per FSL report, the total weight of the recovered tablets was found to be 32.13 grams, which falls under the commercial quantity. Hence, the rigors of Section 37 of the NDPS Act would be attracted against him. During the course of recovery and further investigation, proper procedure as prescribed under the Act was followed. Trial is at its fag end as only 02 witnesses are left to be examined. The case of the petitioner is not on the same footing with the above named co-accused. It is also argued that if the petitioner is released on bail, he may abscond or indulge in 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

2025:PHHC:008810



and have also perused the material placed on record.

6. The petitioner was apprehended by the police party on 05.12.2023 and recovery of 270 intoxicant tablets of *Etizolam* was effected from him. Report of the FSL has been received, as per which, the total weight of the recovered tablets was found to be 32.13 grams. Obviously, the said quantity of the contraband 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 439 of Cr.P.C. The trial is stated to be at its fag end as only 02 witnesses are remained to be examined and there is nothing on record to show that there would be any undue delay in conclusion of trial. So far as the claim of the petitioner for parity with the above named co-accused is concerned, the case of the petitioner cannot be stated to be on similar footing with them as they were nominated in this case in the aid of Section 29 of the NDPS Act, whereas the petitioner was nabbed at the spot and aforesaid recovery of contraband was effected from him. 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

2025:PHHC:008810



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.

22.01.2025

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No