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

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CRM-M-43250-2024 (O&M)
Date of decision: 13.02.2025

Lakhwinder Ram @ Chirhi**...Petitioner**

Versus

State of Punjab**...Respondent****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. Piyush Khanna, Advocate
for the petitioner.

Ms. Sakshi Bakshi, 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 FIR No. 184 dated 17.10.2023, registered under Sections 22 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (*for short 'NDPS Act'*) at Police Station Garhshankar, District Hoshiarpur.

2. Brief facts of the case relevant for the disposal of the present petition are that on 17.10.2023, the petitioner was apprehended by a police party headed by Inspector Kuldip Singh and recovery of 310 grams of intoxicant powder (Tramadol Hydrochloride) 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

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presently, the petitioner is facing trial for commission of aforementioned offence. He was granted concession of interim bail by the learned trial Court awaiting the FSL report. However, on receipt of the FSL report, his interim bail was cancelled, vide order dated 27.02.2024, and he was taken into custody. Thereafter, he had moved another application for grant of regular bail before the learned trial Court 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. The recovery shown to have been effected from him was in fact planted one. Mandatory provisions of Sections 42 and 50 of the NDPS Act were not complied with properly. The petitioner is in judicial custody since 17.10.2023 barring the period of interim bail. He is not involved in any other criminal case except the present one. 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. Status report 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 by the police party at the spot and recovery of 310 grams of intoxicant powder of Tramadol Hydrochloride was effected from him. He is involved in a number of other cases under the NDPS Act. Since he is a habitual offender and commercial quantity of the contraband has been recovered from him, the rigors of Section 37 of the

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NDPS Act would be attracted against him. His story regarding false implication and plantation of the recovered contraband is concocted one. 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 and the recovery of 310 grams of intoxicant power of Tramadol Hydrochloride was effected from him. Awaiting the FSL report, he was granted interim bail but on receipt of the same, his bail was cancelled on 27.02.2024. A perusal of the status report as well as the custody certificate of the petitioner shows that he is involved in a number of other cases under the NDPS Act. However, while concealing the said fact, the petitioner, in his petition, has claimed that he is not involved in any other case. A person must approach the Court with clean hands ensuring full honesty and transparency as concealing facts or misleading the Court compromises justice and the integrity of the legal process. Even otherwise, the quantity of the contraband recovered from the petitioner falls within the commercial quantity. Hence, the rigors of Section 37 of the NDPS Act would certainly be attracted against him 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

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stated to be unfounded keeping in view his criminal antecedents. Trial is going on and there is nothing on record to suggest that there would be any undue delay in conclusion of trial. The arguments raised by learned counsel for the petitioner with regard to lacunas in the investigation cannot be looked into at this stage as the same is to be decided by the learned trial Court after appreciating the entire evidence and material placed on record before it. In cases under the NDPS Act involving commercial quantity, negation of bail is the rule and its grant is an exception. Hence, keeping in view the gravity of allegations as levelled against the petitioner, his criminal antecedents, the quantity of alleged contraband recovered from him, 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.

13.02.2025
Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No