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

CRM-M-48336-2024 (O&M)

Reserved on : 14.07.2025

Pronounced on : 16.07.2025

Sunil Kumar @ Kalu

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Amit Arora, Advocate
for the petitioner.

Ms. Sakshi Bakshi, AAG, Punjab.

MANISHA BATRA, J.

1. Prayer in this petition, filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, is for grant of regular bail to the petitioner in FIR No. 08 dated 20.04.2023, registered under Sections 21, 25, 29 and 27-A of the Narcotic Drugs and Psychotropic Substances Act, 1985 (*for short 'NDPS Act'*) at Police Station State Special Operation Cell, Amritsar, District Intelligence Wing (CID).

2. Brief facts of the case relevant for the disposal of the present petition are that on 20.04.2023, a secret information was received by SI Jagjeet Singh to the effect that the petitioner was indulged in smuggling of heroin and had close link with Pakistani smugglers. It was also informed that the petitioner and co-accused Kali had received a consignment of heroin in Ferozepur and on that day, they were coming to village Harike to deliver the same to a party in a car bearing registration number PB-13-2021. Believing the information to be true, the police party reached at the informed place, where a Verna car was seen and a person was standing outside the conductor

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seat, who was holding a black color bag, whereas another person was sitting on the driver seat. On seeing the police party, the person standing outside the car immediately got in the car and both of them fled away. However, in that process, the aforesaid black color bag fell down. Thereafter, on the basis of a secret information, one Kala Singh @ Kali was arrested. Thereafter, on 27.10.2023, in pursuance of a tip off received by the Investigating Officer, the petitioner, while coming in Verna car bearing registration number PB-13-AV-2021, was apprehended and recovery of drug money of Rs. 8.5 Lakhs was effected from the said car. Upon interrogation, the petitioner disclosed that he was indulged in smuggling of heroin along with co-accused Bitta, who used to disguise himself as 'Kali'. 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 along with the co-accused is facing trial for commission of aforementioned offences. He had moved an application for grant of regular bail before the trial Court but the same had been dismissed, vide order dated 28.08.2024.

3. Learned counsel for the petitioner has argued that he has been falsely implicated in this case. The petitioner was not arrested from the spot on 20.04.2023. Rather, he was subsequently arrested on 27.10.2023 in pursuance of secret information. However, no contraband is shown to have been recovered from him, except an amount of Rs. 8.5 Lakhs, which was in fact not the drug money. Co-accused Kala Singh @ Kali has been granted concession of default bail under Section 167(2) of Cr.P.C., vide order dated 23.10.2023, passed by the learned trial Court. The petitioner is not involved in any other case. Even otherwise, investigation stands completed and

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challan has been filed. Conclusion of trial is likely to take time. The petitioner is in custody since 27.10.2023. 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. Status report has been filed by the respondent-State. It is submitted therein and learned Assistant Advocate General, Punjab has argued that the petitioner is not entitled to get benefit of bail as a commercial quantity of the contraband was recovered from him as well as aforesaid co-accused. Although, they succeeded in running away on 20.04.2023 but later on both of them were arrested. Drug money of Rs. 8.5 Lakhs has also been recovered from the petitioner. It is further argued that since the quantity of the contraband recovered in this case falls under the commercial quantity, the rigors of Section 37 of the NDPS Act would be attracted against the petitioner. The petitioner was arrested on 27.10.2023 and *challan* qua him was presented on 23.04.2024 i.e. within limitation. Hence, he cannot claim parity with co-accused Kala Singh @ Kali. The trial may be expedited. It is also argued that if the petitioner is released on bail, he can 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. The petitioner along with co-accused was duly named in the secret information as well as in the FIR. Although, the petitioner and co-accused Kala Singh @ Kali fled away from the spot on 20.04.2023,

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however, they dropped a bag in that process, from which, recovery of 04 kgs. of heroin was effected. Later on, they were arrested on 24.04.2023 and 27.10.2023, respectively. Drug money of Rs.8.5 Lakhs was also recovered from the petitioner and for justifying the possession of the same, there is no explanation forthcoming from the petitioner. The quantity of the recovered contraband obviously falls within the ambit of commercial quantity. Hence, the rigors of Section 37 of the NDPS Act would certainly be attracted against him. The apprehension of learned State counsel that if extended benefit of bail, the petitioner may indulge in similar offences or may abscond can also not be stated to be unfounded. There are serious and specific allegations against the petitioner. Therefore, 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, this Court is 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.

16.07.2025
Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No