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

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CRM-M-51531-2024 (O&M)
Date of decision: 30.04.2025

Shera ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Satnam Singh Gill, Advocate
for the petitioner.

Ms. Sakshi Bakshi, AAG, Punjab.

MANISHA BATRA, J. (Oral)

1. Prayer in this petition, filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, is for grant of regular bail in case arising out of FIR No. 0133 dated 07.07.2023, registered under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (*for short 'NDPS Act'*) at Police Station City Jagraon, District Ludhiana.
2. Brief facts of the case relevant for the disposal of the present petition are that on 06.12.2023, the petitioner was apprehended by a police party headed by SI Sahib Hazara and recovery of 510 capsules of Proxywel Spas having salt of Tramadol Hydrochloride 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 aforementioned offence.
3. Learned counsel for the petitioner has argued that the petitioner has

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been falsely implicated in this case. The provisions of Section 50 of the NDPS Act were not properly complied with. The story put forth by the police party is concocted one. It is further argued that as per FSL report, the average weight of the powder in capsule was found to be 433 mg. Hence, the total weight of the contraband would come to only 220.83 grams, which does not fall within the ambit of commercial quantity of the said salt. Hence, the rigors of Section 37 of the NDPS Act would not be attracted at all. The petitioner is not involved in any other case under the NDPS Act. He is in judicial custody since 06.12.2023. The trial is likely to take a long time. No useful purpose would be served by keeping him in custody anymore. It is, therefore, urged that the petition deserves to be allowed.

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 huge quantity of the intoxicating capsules was recovered from him. Trial may be expedited. 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 and have also perused the material placed on record.

6. The petitioner was apprehended by the police party on 06.12.2023 and recovery of 510 intoxicating capsules of *Tramadol Hydrochloride* was effected from him. As per FSL report, the average weight of the powder in a capsule was found to be 433 mg, whereas average weight of a filled capsule was found to be 538 mg. Hence, it will be a question of debate as to whether for the purpose of calculating the weight of the recovered contraband, the weight of the

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capsules would be taken with its shells or only the powder contained in shells would be considered for that purpose? This question is to be decided by the learned trial Court after appreciating the entire evidence produced before it. The petitioner is not involved in any other case of similar nature. He is in custody since 06.12.2023. Trial is likely to take time. There is no basis to state that if released on bail, the petitioner may abscond or indulge in similar offences. Keeping in view the discussion as made above, I am of the considered opinion that no useful purpose would be served by keeping the petitioner in custody anymore. Accordingly, the present petition is allowed. The petitioner is ordered to be released on regular bail, subject to his furnishing personal/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned. However, it will be open for the prosecution to apply for cancellation of bail in case the petitioner is found involved in any other subsequent case.

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.

30.04.2025

Wassem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No