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

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CRM-M-53611-2024 (O&M)
Date of decision: 06.02.2025

Sourav ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Sumit Dua, Advocate
for the petitioner.

Ms. Sakshi Baskhi, 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 to the petitioner
in case bearing FIR No. 06 dated 13.01.2024, registered under Sections 21
and 22 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 13.01.2024, the petitioner, while coming in a car bearing
registration number PB-07-CE-1345, was apprehended by a police party
headed by ASI Rashpal Singh and recovery of 21 injections of
Buprenorphine IP 0.3 and 70 grams of heroin along with drug money of
Rs. 30,000/- was effected from him. He was formally arrested at the spot.
During interrogation, he admitted his guilt and disclosed that the recovered
heroin was purchased by him from his mother-in-law Babbi @ Babli and the

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intoxicant injections were purchased from Uttar Pradesh to sell the same to his customers. After completion of necessary investigation and usual formalities, *challan* under was presented in the Court and presently, the petitioner is facing trial for commission of aforementioned offence. He had moved an application for grant of regular bail before the trial Court but the same had been dismissed, vide order dated 22.02.2024.

3. Learned counsel for the petitioner has argued that he has been falsely implicated in this case. As per Rule 66 of the NDPS Rules, possession of less than 100 units of Buprenorphine would not be considered as an offence. Even otherwise, the mandatory provisions of Section 50 of the NDPS Act were not complied with. The petitioner is in judicial custody since 13.01.2024. The trial is likely to take time. 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 granted benefit of regular bail.

4. Status report has been filed by the respondent-State. It is submitted therein and learned Assistant Advocate General, Punjab has vehemently argued that the petitioner was nabbed at the spot and recovery of 21 injections of *Buprenorphine* IP 0.3 and 70 grams of heroin along with drug money of Rs. 30,000/- was effected from him. Proper procedure as prescribed under the NDPS Act was complied with during the course of investigation. The story of the petitioner regarding his false implication is concocted one. He is a habitual offender as he is involved in three more cases under the NDPS Act. Apart from this, two cases under the provisions of IPC and one case under the Prison Act are also pending against him. The

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trial is going on at a proper pace. It is also argued that if the petitioner is released on bail, he 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 recovery of 21 injections of *Buprenorphine* IP 0.3 and 70 grams of heroin along with drug money of Rs. 30,000/- was effected from him. He is shown to be involved in number of other criminal cases, out of which, three cases have been registered against him under the provisions of NDPS Act, which shows that he is a habitual offender as well as a drug peddler. A repeat offender does not deserve to be granted the concession of bail. In cases under the NDPS Act, the negation of bail is the rule and its grant is an exception. Trial is going on and there is nothing on record to suggest that there would be any undue delay in conclusion of the same. The apprehension of learned State counsel that if extended benefit of bail, the petitioner may abscond or indulge in similar offences cannot be stated to be unfounded keeping in view his criminal antecedents. The arguments raised by learned counsel for the petitioner with regard to lacunas in investigation cannot be looked into at this stage as the same is to be decided by the trial Court after appreciating the entire evidence and material placed on record before it. 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

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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.

06.02.2025
Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No