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

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CRM-M-54978-2024 (O&M)
Date of decision: 19.02.2025

Buta Khan

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Anil Kumar Garg, Advocate
for the petitioner.

Ms. Swati Batra, Deputy Advocate General, 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 FIR No. 24 dated 27.03.2024, registered under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (*for short 'NDPS Act'*) [challan filed under Sections 15 and 25 of the NDPS Act] at Police Station Amargarh, District Malerkotla.

2. Brief facts of the case relevant for the disposal of the present petition are that on 27.03.2024, on the basis of a secret information, the petitioner and co-accused Bajidner Singh @ Raju, while coming in a truck bearing registration number PB-13-BP-8545, were apprehended by a police party headed by ASI Maghar Singh and recovery of 92 kgs of poppy husk was effected from them. Both of them were formally arrested at the spot. After

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completion of necessary investigation and usual formalities, *challan* was presented before the Court and presently, the petitioner along with the co-accused is facing trial for commission of aforesaid mentioned offence. He had moved an application before the trial Court for grant of regular bail but the same had been dismissed, vide order dated 19.07.2024.

3. Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in this case. No independent witness was joined by the police party. False recovery of the contraband has been planted upon the petitioner. The petitioner is not the owner of the said truck. Mandatory provisions of Section 42 of the NDPS Act were not complied with properly. Even otherwise, investigation has since been completed and *challan* has been filed. The trial is likely to take a long time. The petitioner is in custody since 27.03.2024. 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 Deputy Advocate General, Punjab has argued that the petitioner and the above named co-accused were apprehended by the police party while they were coming in the aforesaid truck and recovery of 92 kgs. of poppy husk was effected from them. During the course of recovery and further investigation, proper procedure as prescribed under the NDPS Act was followed. It is submitted that since a commercial quantity of the contraband has been recovered in this case, the rigors of Section 37 of the NDPS Act would be attracted against the petitioner. Trial is going at a proper pace. It is also argued that if the petitioner is released on bail, he may abscond or indulge in the similar offences. It is, thus, argued that the petition is liable

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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 Bajinder Singh @ Raju was apprehended by the police party while they were coming in the aforesaid truck and recovery of 92 kgs. of poppy husk was effected from them. The quantity of the recovered contraband falls within the ambit of 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 Deputy Advocate General, Punjab that if extended benefit of bail, the petitioner may abscond or indulge in similar offences cannot be stated to be unfounded. 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. Hence, keeping in view the gravity of allegations as levelled against the petitioner, the quantity of the 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

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for the purpose of deciding the present petition and the same shall have no bearing on the merits of the case.

19.02.2025
Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No