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

279

CRM-M-55720-2024 (O&M)
Date of decision: 07.02.2025

Rohit Kumar ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. P. S. Dhaliwal, 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 to the petitioner in FIR No. 315 dated 27.06.2024, registered under Sections 22 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (*for short 'NDPS Act'*) at Police Station City Barnala, District Barnala.
2. Brief facts of the case relevant for the disposal of the present petition are that on 27.06.2024, on the basis of a secret information, the petitioner along with co-accused Vakeel Singh, Gurpyar Singh and Munish Kumar was apprehended by a police party headed by SI Manjit Singh from the cotton market and recovery of total 700 loose intoxicant tablets (Alprazolam) was effected from them. They were formally arrested at the spot. After completion of necessary investigation and usual formalities, *challan* was presented in the Court and presently, the petitioner along with the co-accused is facing trial for commission of aforementioned offence. He had moved an

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application for grant of regular bail before the learned trial Court but the same had been dismissed, vide order dated 10.10.2024.

3. Learned counsel for the petitioner has argued that he has been falsely implicated in this case. No contraband has been recovered from the petitioner. There is nothing on record to connect the petitioner with the subject crime. Neither the provisions of Section 50 of the NDPS Act were complied with nor any independent witness was joined. In fact, the petitioner is an employee of Municipal Council, Barnala and on 27.06.2024, he had gone to Govt. Hospital for his medical check up, where some anti social elements caught hold of him and published a false news that he was selling intoxicant capsules and the police, by concocting a story, has falsely implicated him in the present case. This fact can be verified from the CCTV footage, which has been placed on record in the form of a CD. It is further argued that investigation has since been completed and challan has been presented. Conclusion of trial is likely to take time. The petitioner is in judicial custody since 27.06.2024. He is not involved in any other case under the NDPS Act. 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 vehemently opposed the prayer made by the petitioner by arguing that he along with above named co-accused was apprehended by the police party at the spot and recovery of 700 loose intoxicant tablets of Alprazolam was effected from them. The claim of the petitioner regarding his false implication is false and

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baseless. Proper procedure as prescribed under the law was followed during the course of investigation. Since commercial quantity of the contraband has been recovered from the petitioner and co-accused, the rigors of Section 37 of the NDPS Act would be attracted against him. 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 along with above named co-accused was apprehended by the police party on 27.06.2024 and recovery of 700 loose intoxicant tablets of Alprazolam was effected from them. A perusal of the status report as well as the custody certificate of the petitioner shows that he is involved in one more criminal case under the provisions of IPC, which reveals that he does not have clean criminal antecedents. Even otherwise, the quantity of the contraband recovered from the petitioner and co-accused 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 Assistant Advocate General, Punjab that if extended benefit of bail, the petitioner may abscond or indulge in similar offences cannot be stated to be unfounded at this stage. So far as the CCTV footage is concerned, on the strength of which the petitioner has claimed that in fact he was apprehended from the Govt. Hospital, I have played the CD on the computer of the Court and it was found that it contained some videos whereby a

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person was seen chopping off the fingers of another person and nothing of any sort as claimed by the petitioner was seen there. Even otherwise, this Court is not supposed to delve deep into the evidence while deciding a petition for grant of bail as the same is to be looked into by the learned trial Court at the time of final disposal of the trial after appreciating the entire material and evidence produced before it. 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. 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 in this case, 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.

07.02.2025

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No