



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

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CRM-M-55425-2024 (O&M)
Date of decision: 09.01.2025

Murli Saini ...Petitioner

Versus

State of Haryana ...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Nirmal Singh, Advocate
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

MANISHA BATRA, J. (Oral)

1. This petition has been filed by the petitioner under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 seeking regular bail in case arising out of FIR No. 490 dated 26.08.2024, registered under Section 21(b) of Narcotic Drugs and Psychotropic Substances Act, 1985 (*for short 'NDPS Act'*) at Police Station Jagadhri City, District Yamuna Nagar.
2. Brief facts of the case relevant for the purpose of disposal of this petition are that on 25.08.2024, co-accused Kamal Garg was apprehended by a police party and recovery of 8.38 grams of heroin was effected from him. During the course of investigation, the disclosure statement of aforesaid co-accused was recorded, wherein he disclosed that the recovered contraband was purchased by him from the present petitioner. On the basis of the said disclosure, the petitioner was nominated in this case and was arrested on 01.10.2024 by way of production warrant as he was already in custody in connection with some other case.

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3. Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in this case. The petitioner was not found at the spot and has been involved in this case on the basis of the disclosure statement made by the co-accused, which is not admissible in law against the petitioner. To fortify this argument, learned counsel for the petitioner has relied upon the authority of Hon'ble Supreme Court rendered in *Tofan Singh vs. State of Tamil Nadu : (2021) 4 SCC 1*. It is further argued that even otherwise the alleged recovery of the contraband effected from the co-accused does not fall under commercial quantity. Investigation qua the petitioner has been completed and *challan* has been presented. Conclusion of trial is likely to take some time. No useful purpose would be served by keeping him in custody anymore. The petitioner has falsely been implicated in one more case under the NDPS Act but he is on bail in that case. It is, therefore, urged that the petition deserves to be allowed.

4. Custody certificate of the petitioner has been filed by the respondent-State. Learned Assistant Advocate General, Haryana, in terms of the custody certificate as well as reply, has argued that though the petitioner was nominated in this case on the basis of the disclosure suffered by the co-accused but during the course of investigation, his involvement in the subject crime was duly established. The petitioner had supplied the recovered contraband to the co-accused for a sum of Rs. 25,000/-. His criminal antecedents are not clean as he is involved in one more case under the NDPS Act. Trial is going on at proper pace. 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.

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6. The petitioner has been nominated in this case on the basis of the disclosure made by co-accused Kamal Garg, from whose custody, recovery of 8.38 heroin was effected, which obviously does not fall under the commercial quantity. The allegation against the petitioner is that he had supplied the recovered contraband to the co-accused. However, it is not disputed that at the time of registration of FIR, the petitioner was in custody in connection with some other case. It is also not disputed that the petitioner is on bail in another case registered against him under the NDPS Act. The petitioner is in custody since 01.10.2024. A perusal of the reply shows that one Saddam has also been nominated in this case and supplementary *challan* qua him is to be filed, which means conclusion of trial is likely to take time. Keeping in view the above facts and circumstances, 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.

09.01.2025

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No