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

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CRM-M-57441-2024 (O&M)

Date of decision: 11.03.2025

Balvinder Singh @ Binder**...Petitioner****Versus****State of Haryana****...Respondent****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. Amit Choudhary, 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 bearing FIR No. 802 dated 23.09.2024, registered under Section 21(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (*for short 'NDPS Act'*) at Police Station Sadar Hisar, District Hisar.

2. Brief facts of the case relevant for the purpose of disposal of this petition are that on 23.09.2024, on the basis of a secret information, the petitioner and co-accused Robin @ Nija were apprehended by a police party headed by SI Karamjeet from the place near to railway crossing at village Peeranwali. On conducting their search, recovery of 267.35 grams of heroin was effected from co-accused Robin @ Nija, whereas no incriminating material was recovered from the present petitioner. During the course of interrogation, both of them admitted that the recovered contraband belonged to them and they were involved in selling heroin. They were formally arrested at the spot. The petitioner had moved an application for grant of regular bail

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but the same had been dismissed by the Court of learned Additional Sessions Judge, Hisar, vide order dated 24.10.2024.

3. Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in this case. In fact, he was picked up by the police officials from his house at 04:00 PM on 23.09.2024 and on the same day, the police had staged the entire occurrence at 09:00 PM near the alleged railway crossing. The wife of the petitioner had written an application on 25.09.2024 to the ADGP, Hisar regarding illegal apprehension of the petitioner but no action was taken. She had also filed a complaint against the police officials before the learned Area Magistrate, which is still pending. She had also moved an application under Section 91 of Cr.P.C. before the Magistrate concerned seeking direction to produce the mobile numbers and call record/tower location of the police officials during the relevant time. Even otherwise, mandatory provisions of Sections 42 and 50 of the NDPS Act were not complied with properly. As per own case of the prosecution, aforesaid contraband was recovered from the co-accused and no incriminating material was recovered from the petitioner. Although, the petitioner has been falsely implicated in one more case but he is on anticipatory bail in that case. 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, Haryana has argued that the petitioner was apprehended at the spot along with aforesaid co-accused and recovery of 267.35 grams of heroin was effected from the co-accused. It has been found that the petitioner was also involved in selling heroin along with the co-accused. The petitioner is involved in one more case

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of similar nature. Investigation is still going on. It is also argued that if the petitioner is released on bail, he can 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 is alleged to have been apprehended by the police party along with co-accused Robin @ Nija, from whose possession, recovery of 267.35 grams of heroin was recovered. The allegations against the petitioner are that the recovered contraband belonged to him as well and he was also involved in selling heroin. The quantity of the contraband allegedly recovered from the co-accused obviously falls within the ambit of commercial quantity. The petitioner is shown to be involved in one more case under the NDPS Act, although he is on bail in that case but it show that the petitioner is a habitual offender. Even otherwise, investigation is still going on and releasing the petitioner on bail at this stage can affect the same. The petitioner has placed on record two photographs and certain other documents/copies of applications in support of his claim that he was falsely implicated in this case. Although, this Court is not supposed to delve that deep into evidence while deciding a bail petition, however, still on perusal of the aforesaid documents, no inference can be drawn as to the false implication of the petitioner or otherwise. Keeping in view the aforesaid facts and circumstances, the quantity of the contraband recovered in this case, the criminal antecedents of the petitioner, the quantum of sentence which the conviction may entail and the attendant facts and circumstances of the case, I am of the considered opinion

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that the petitioner does not deserve to be granted benefit of regular bail, at this stage. Hence, the petition is dismissed.

7. It is made clear that the observations made hereinabove are only for the purpose of deciding the present petition and the same shall not be construed as an expression of opinion on the merits of the case.

11.03.2025

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No