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

217

CRM-M-57856-2024 (O&M)

Date of decision: 28.01.2025

Amit Kumar

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Ms. Lavanya Gupta, 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. 39 dated 21.02.2023, registered under Sections 20 and 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (*for short 'NDPS Act'*) at Police Station Shehzadpur, District Ambala.

2. Brief facts of the case relevant for the purpose of disposal of this petition are that on 21.02.2023, on the basis of secret information, co-accused Monu and Deepak Kumar were apprehended by a police party headed by SI Raj Kumar and recovery of 200 capsules having salt of Dicyclomine Hydrochloride, Tramadol Hydrochloride and Acetaminophen was effected from Monu, whereas recovery of 1728 capsules of the same salt was effected from Deepak Kumar. Since they were not having any permit or licence to carry aforesaid drugs, they were formally arrested at the spot. During the course of investigation, they suffered disclosure statements to the effect that they had purchased the recovered contraband from the present petitioner. On the basis of the same, the petitioner was nominated as an accused in this case.

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He was arrested on 02.07.2024. After completion of necessary investigation and usual formalities, *challan* under Section 173 of Cr.P.C. was presented in the Court and presently, the petitioner along with the co-accused is facing trial for commission of aforesaid mentioned offences. He had moved an application before the learned trial Court for grant of regular bail but the same had been dismissed, vide order dated 09.09.2024.

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 statements made by the aforesaid co-accused, which is not admissible in evidence. 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 the petitioner and co-accused Deepak Kumar and running their mechanic shops at Naraingarh road and since they are in the same field and co-accused Monu had been working in the shop of Deepak Kumar, they all used to make phone calls to each other in connection with their business. The petitioner has been apprehended in this case after 17 months of registration of the FIR, which shows that he has been nominated in this after due deliberation. The petitioner is in judicial custody since 02.07.2023. Investigation has since been completed and challan has been presented. Conclusion of trial is likely to take time. More so, co-accused Deepak Kumar, from whose custody 1728 intoxicant capsules were recovered, has already been granted concession of regular bail by this Court, vide order dated 30.07.2024 passed in ***CRM-M-21705-2024***. On the grounds of parity, the petitioner too deserves to

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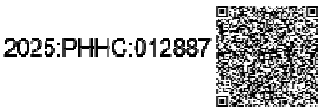


be granted the same benefit. It is, therefore, urged that the petition deserves to be allowed.

4. Status report has been filed by the respondent-State. It is submitted therein and learned Assistant Advocate General, Haryana has argued that 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 has been duly established. The petitioner had supplied the intoxicant capsules to the aforesaid co-accused, who were arrested at the spot. Call details record of the petitioner had been procured, which shows that he was in constant touch with the aforesaid co-accused. Trial is going on at proper pace. It is, thus, argued that the petition is liable to be dismissed.

5. I have learned counsel for the parties at considerable length and have also perused the material placed on record.

6. The petitioner has been nominated in this case on the basis of the disclosure statements suffered by co-accused Deepak Kumar and Monu, who were arrested at the spot on 21.02.2023 and from whose possession, aforesaid quantity of the intoxicant capsules was recovered. The allegation against the petitioner is that he had supplied the recovered capsules to the co-accused. The petitioner has been apprehended in this case after a long gap of about 17 months from the date of registration of the FIR. Neither any subsequent recovery of the contraband is shown to be effected from him nor is he stated to be involved in any other case under the NDPS Act. There is nothing on record to connect the petitioner with the subject crime, except the disclosure of the co-accused and aforesaid call details. The petitioner has taken a plea that he used to exchange phone calls with the aforesaid co-accused as they



were having similar shops in the vicinity and relate to the same field of business. Reference can be made to an order dated 23.08.2023, passed by the Hon’ble Supreme Court in Special Leave to appeal (Crl.) No. 6599/2023, titled as *Ajmal T. A. @ Kuru vs. State of Kerala*, whereby in similar circumstances, the petitioner-accused had been granted concession of regular bail by observing that there was remote likelihood of the petitioner’s involvement as the alleged involvement was entirely based upon the co-accused’s statement and alleged call details record. The facts of the said case are similar to that of the present case. The petitioner is in custody since 02.07.2024. The trial is likely to take time. Co-accused Deepak Kumar, who was apprehended at the spot and from whose possession, recovery of aforesaid quantity of intoxicant capsules was effected, has already been granted concession of regular bail by this Court, as mentioned above. Keeping in view the discussion as made above, 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.

28.01.2025

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No