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

CRM-M-59128-2024 (O&M)

Reserved on : 29.01.2025

Pronounced on : 05.02.2025

Sumer @ Shyam**...Petitioner****Versus****State of Haryana****...Respondent****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. Gunjeet Singh Brar, Advocate
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

MANISHA BATRA, J. (Oral)

1. Prayer in this petition, filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 (*for short 'BNSS'*), is for grant of regular bail to the petitioner in FIR No. 383 dated 28.07.2024, registered under Section 15C of the Narcotic Drugs and Psychotropic Substances Act, 1985 (*for short 'NDPS Act'*) at Police Station Sadar Dabwali, District Sirsa.

2. Brief facts of the case relevant for the disposal of the present petition are that on 28.07.2024, on receiving a secret information that a truck bearing registration number RJ-07-GF-8205 was coming from Rajasthan and the same can be apprehended with huge quantity of *doda* post. Being the information to be true, a barrier was laid at the informed place and the said truck was stopped, in which, two persons were sitting. The driver of the vehicle disclosed his name as 'Gena Ram Bhil' and another person disclosed

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his name as 'Sumer', who is the present petitioner. While following the procedure as prescribed under the NDPS Act, the search of the said vehicle was conducted and recovery of 59 kgs. 820 grams of *doda* post was effected from the same. Both the persons were formally arrested at the spot. After completion of necessary investigation and usual formalities, *challan* under Section 193 of BNSS 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 application for grant of regular bail before the learned trial Court but the same had been dismissed, vide order dated 18.10.2024.

3. Learned counsel for the petitioner has argued that he has been falsely implicated in this case. He was just accompanying co-accused Gena Ram, who is his father. They were given the said truck loaded with onions, which they had to deliver at the given address. They were not aware of the fact that some sacks were containing *doda* post. Even otherwise, mandatory provisions of Sections 50 and 57 of the NDPS Act were not properly complied with. 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 28.07.2024. No useful purpose would be served by keeping him in custody anymore. 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, Haryana has vehemently argued that the petitioner is not entitled to get benefit of bail as a

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commercial quantity of the contraband was recovered from the vehicle, which was being driven by his father/co-accused Gena Ram and he was the occupant of the same. He was nabbed at the spot. His story regarding false implication is concocted one. FSL report has been received, as per which, the samples were containing poppy straw/doda post. It is further argued that since the recovery of the contraband effected from the petitioner falls under the commercial quantity, the rigors of Section 37 of the NDPS Act would be attracted against the petitioner and he is not entitled to get benefit of bail. The trial is going on at a proper pace. It is also argued that if the petitioner is released on bail, he may abscond or indulge in similar offences. Hence, it is urged that the petition is liable to be dismissed.

5. Due deliberation has been given to the contentions raised by both the parties, apart from perusing the material placed on record.

6. As per the allegations, on the basis of a secret information, the petitioner and co-accused Gena Ram were apprehended by the police party on 28.07.2024, while they were coming in aforesaid truck, which was loaded with sacks of onions. However, on conducting search of the vehicle, recovery of 59 kgs. 820 grams of doda post, kept in some sacks, were effected. The sacks containing the contraband were kept concealed under the sacks of onions. The quantity of the contraband recovered from the petitioner and co-accused is huge and obviously falls within the ambit of commercial quantity. There is nothing on record to form a *prima facie* opinion that the petitioner is not guilty of the subject offence. Hence, the rigors of Section 37 of the NDPS Act would certainly be attracted against the petitioner. The arguments raised by learned counsel for the petitioner

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with regard to lacunas in 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. The trial is going on and there is nothing on record to suggest that there would be any undue delay in conclusion of the same. The apprehension of learned Assistant Advocate General, Haryana that if the petitioner is released on bail, he can abscond or indulge in similar offences cannot be stated to be unfounded at this stage. Keeping in view the gravity of allegations as levelled against the petitioner, the quantity of alleged contraband recovered from him, the quantum of sentence which the conviction may entail and the attendant facts and circumstances of the case, this Court is 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.

05.02.2025
Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No