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

311

CRM-M-59520-2024 (O&M)
Date of decision: 27.01.2025

Mandeep Kumar @ Mana**...Petitioner**

Versus

State of Punjab**...Respondent****CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA**

Present:- Mr. Ravi Malhotra, 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 (*for short 'BNSS'*), is for grant of regular bail to the petitioner in FIR No. 208 dated 29.11.2023, registered under Section 21C of the Narcotic Drugs and Psychotropic Substances Act, 1985 (*for short 'NDPS Act'*) and Sections 379 and 411 of IPC (*added later on*) at Police Station Salem Tabri, District Ludhiana.

2. Brief facts of the case relevant for the disposal of the present petition are that on 29.11.2023, the petitioner, while coming on a motorcycle without any number plate, was apprehended by a police party headed by ASI Hardev Singh and recovery of 265 grams of heroin was effected from him. He was formally arrested at the spot. During the course of investigation, it was found that that the said motorcycle was stolen one and an FIR bearing

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No. 104 dated 24.11.2023, under Section 379 of IPC was got registered by the registered owner of the same. Offences under Sections 379 and 411 of IPC were also added in the present case. After completion of necessary investigation and usual formalities, *challan* was presented in the Court and presently, the petitioner is facing trial for commission of aforementioned offences. He had moved an application for grant of regular bail before the learned trial Court but the same had been dismissed, vide order dated 10.07.2024.

3. Learned counsel for the petitioner has argued that he has been falsely implicated in this case. He was not present at the spot disclosed in the FIR and no recovery of contraband was effected from him. Rather, he was picked up from his house and falsely implicated in this case. There is nothing on record to connect the petitioner with the subject crime. Earlier also, the petitioner was falsely implicated in a similar case. 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 29.11.2023. 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 been filed by the respondent-State. It is submitted therein and learned Assistant Advocate General, Punjab has argued that the petitioner is not entitled to get benefit of bail as a commercial quantity of the contraband was recovered from him. He was nabbed at the spot. His story regarding false implication is concocted one. It is further argued that since the quantity of the recovered contraband falls under the

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commercial quantity, the rigors of Section 37 of the NDPS Act would be attracted against the petitioner. The trial may be expedited. The criminal antecedents of the petitioner are not clean as he is involved in as many as ten cases, out of which, in two cases he has been convicted. It is also argued that 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 was apprehended by the police party on 23.11.2023 and the recovery of 265 grams of heroin was effected from him. The total weight of the recovered contraband falls within the ambit of commercial quantity. Hence, the rigors of Section 37 of the NDPS Act would certainly be attracted in this case. A perusal of the custody certificate of the petitioner reveals that he is involved in a number of other criminal cases. Keeping in view his criminal antecedents, the apprehension of learned Assistant Advocate General, Punjab that if released on bail, the petitioner may abscond or indulge in similar offences cannot be stated to be unfounded, at this stage. There is nothing on record to suggest that there would be any undue delay in conclusion of trial. Therefore, keeping in view the gravity of allegations as levelled against the petitioner, the quantity of alleged contraband recovered from him, his criminal antecedents, 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.

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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.

27.01.2025
Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No