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

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CRM-M-58845-2024 (O&M)
Date of decision: 14.02.2025

Daljit Singh ...Petitioner

Versus
State of Punjab ...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Ms. Simsi Dhir, Advocate and
Mr. Deepak Malhotra, Advocate
for the petitioner.

Ms. Himani Arora, AAG, Punjab.

MANISHA BATRA, J. (Oral)

1. Prayer in this petition, filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, is for grant of regular bail to the petitioner in case bearing FIR No. 184 dated 17.10.2023, registered under Sections 22 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (*for short 'NDPS Act'*) at Police Station Garhshankar, District Hoshiarpur.
2. Brief facts of the case relevant for the disposal of the present petition are that on 17.10.2023, co-accused Lakhwinder Singh @ Chirhi was apprehended by a police party headed by Inspector Kuldeep Singh and recovery of 310 grams of intoxicant powder (Tramadol Hydrochloride) was effected from him. He was formally arrested at the spot. During the course of investigation, the above named co-accused disclosed that he had purchased the recovered contraband from the present petitioner. On the basis of the same, the petitioner was nominated in this case as an accused and was arrested on 31.08.2024. After completion of necessary investigation and usual formalities, *challan* was

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presented in the Court and presently, the petitioner along with the co-accused 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 09.10.2024.

3. Learned counsel for the petitioner has argued that he has been falsely implicated in this case. He has been nominated in this case on the basis of the disclosure statement suffered by the above named co-accused, which is not admissible in evidence. Although, the petitioner has been convicted in three cases but his sentence in those cases has been suspended by this Court. The petitioner is in judicial custody since 31.08.2024. Investigation has since been completed and *challan* has been presented. The trial is likely to take time. No useful purpose would be served by keeping him in custody anymore as he is no more required for any custodial interrogation. Therefore, it is urged that the petition deserves to be allowed and the petitioner deserves to be granted benefit of regular bail. To fortify his 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.***

4. Status report has already been filed by the respondent-State. It is submitted therein and learned Assistant Advocate General, Punjab has argued that though the petitioner has been nominated in this case on the basis of the disclosure suffered by the said co-accused but during the course of investigation, his complicity in subject crime has been established. He is involved in a number of other cases under the NDPS Act, out of which, in two cases, he has been convicted. He has even been convicted in a case relating to murder. Since commercial quantity of the contraband has been recovered in this case, the

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rigors of Section 37 of the NDPS Act would be attracted against him. His story regarding false implication is concocted one. The trial may be expedited. 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, co-accused Lakhwinder Singh @ Chirhi was apprehended by the police party and recovery of 310 grams of intoxicant power of Tramadol Hydrochloride was effected from him. The petitioner was nominated by him as the person from whom he had purchased the recovered contraband. The criminal antecedents of the petitioner are not clean as he is shown to have been convicted in two cases under the NDPS Act and in one case relating to murder. Even otherwise, the quantity of the contraband recovered in this case falls within the commercial quantity. Hence, the rigors of Section 37 of the NDPS Act would certainly be attracted against him as nothing has been placed on record before this Court so as to believe that he did not commit the subject offence or in case, he is released on bail, he would not commit any such or similar offence. So far as the ratio of law as laid down by Hon'ble Supreme Court in *Tofan Singh's* case (supra) is concerned, the same is not disputed but it stands clarified by Hon'ble Supreme Court in *State of Haryana vs. Samarth Kumar : 2022(3) RCR (Criminal) 991*, wherein it has been held that the advantage of decision of *Tofan Singh's* case (supra) can be taken at the time of final hearing after conclusion of trial and even at the time of regular bail but that alone cannot form sufficient ground to grant regular bail as other parameters are also required to be looked into as in the present case the petitioner is shown to

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be a habitual offender. The apprehension of learned Assistant Advocate General, Punjab that if extended benefit of bail, the petitioner may abscond or indulge in similar offences cannot be stated to be unfounded keeping in view his criminal antecedents. Trial is going on and there is nothing on record to suggest that there would be any undue delay in conclusion of trial. In cases under the NDPS Act involving commercial quantity, negation of bail is the rule and its grant is an exception. Reliance in this regard can be placed upon the observations made by Hon’ble Supreme Court in authority cited as *Narcotics Control Bureau vs. Kashif : 2024 INSC 1045*. Hence, keeping in view the gravity of allegations as levelled against the petitioner, his criminal antecedents, the quantity of alleged contraband recovered in this case, 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.

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.

14.02.2025
Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No