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

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CRM-M-59492-2024 (O&M)

Date of decision: 27.01.2025

Sarabjit Singh @ Sabhu

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Ms. Lavanya Gupta, Advocate
for the petitioner.

Ms. Sakshi Bakshi, AAG, Punjab.

MANISHA BATRA, J. (Oral)

1. The instant one is the second petition that has been filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 (*for short 'BNSS'*) for grant of regular bail to the petitioner in FIR No. 142 dated 25.09.2022, registered under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (*for short 'NDPS Act'*) at Police Station Kot Ise Khan, District Moga. The first petition, bearing number **CRM-M-12250-2024**, was dismissed as withdrawn on 30.05.2024.

2. Brief facts of the case relevant for the disposal of the present petition are that on 25.09.2022, on the basis of a secret information, the petitioner was apprehended by a police party headed by ASI Kewal Singh and recovery of 210 intoxicant tablets (*Etizolam*) was effected from him. He was formally arrested at the spot. 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

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moved an application for grant of regular bail before the learned trial Court but the same had been dismissed, vide order dated 09.12.2022.

3. Learned counsel for the petitioner has argued that he has been falsely implicated in this case. The alleged recovery of the contraband was not effected from the conscious possession of the petitioner. Mandatory provisions of Section 50 of the NDPS Act were not properly complied with. No independent witness was joined by the police party. There is nothing on record to connect the petitioner with the subject crime. 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 25.09.2022. 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 commercial quantity, the rigors of Section 37 of the NDPS Act would be attracted against the petitioner. The trial is at its fag end as out of total 11 prosecution witnesses, 07 witnesses have already been examined. The petitioner is involved in one more case under the NDPS Act. 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.

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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 25.09.2022 and recovery of 210 tablets of *Etizolam* was effected from him. The quantity 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 against the petitioner. A perusal of the custody certificate of the petitioner reveals that he is involved in one more case under the NDPS Act. 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. The trial is at its fag end and there is nothing on record to suggest that there would be any undue delay in conclusion of trial. 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.

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**Yes/No**Whether reportable**Yes/No*