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

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CRM-M-62671-2024 (O&M)
Date of decision: 19.02.2025

Akash Gupta

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Prateek Pandit, Advocate
for the petitioner.

Ms. Swati Batra, Deputy Advocate General, Punjab.

MANISHA BATRA, J. (Oral)

1. CRM-6878-2025

Allowed as prayed for.

Copy of recovery memo is taken on record.

2. CRM-M-62671-2024 (O&M)

Prayer in this petition, filed under Section 439 of Cr.P.C., is for grant of regular bail to the petitioner FIR No. 26 dated 11.03.2024, registered under Sections 21, 21(c) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (*for short 'NDPS Act'*) and Section 25 of the Arms Act, 1959 at Police Station Jalandhar Cantt. District Jalandhar.

3. Brief facts of the case relevant for the disposal of the present petition are that on 11.03.2024, the petitioner was apprehended by a police party headed by ASI Balwinder Singh and recovery of 100 grams heroin was

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effected from him. He was formally arrested at the spot. During the course of investigation, the petitioner suffered a disclosure statement that the recovered heroin was supplied to him by one Bunty and he was to deliver the same to someone. On this disclosure, aforesaid Bunty was nominated as accused in this case. On 13.03.2024, the petitioner suffered further disclosure statement, wherein he stated that he used to sell heroin and ice (*Methamphetamine*) by buying the same from Bunty. He further disclosed that one Sanamdeep used to collect the amount of sale of contraband from him. He also stated that he also used to deliver the cash to co-accuse Karmi at her house. The information regarding the drug money lying in the bank account of Bunty was also given by him. Thereafter, co-accused Sanamdeep and Karmi were nominated as accused in this case. After arrest, statement of co-accused Karmi was recorded and she got recovered 150 grams ice (*Methamphetamine*) as well as an amount of Rs.8,00,000/- of drug money, which were taken into possession. Thereafter, the petitioner also got recovered a Fortuner car bearing registration number PB-91-9408, from which 160 grams of heroin was recovered. Subsequently, an i-20 Car bearing registration number CH01-DG-3837 and a pistol of .32 bore along with 04 live cartridges of 7.65 caliber were also recovered on the disclosure of the petitioner. After completion of necessary investigation and usual formalities, *challan* 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 trial Court for grant of regular bail but the same had been dismissed, vide order dated 23.07.2024.

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4. Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in this case. No recovery of alleged contraband was made from the petitioner. A false recovery has been planted upon the petitioner. Mandatory provisions of Sections 42, 50, 52-A and 57 of the NDPS Act were not complied with properly. There is nothing on record to connect the petitioner with the subject crime. Even otherwise, investigation has since been completed and *challan* has been presented. The petitioner is in judicial custody since 11.03.2024. The trial is likely to take time. Therefore, it is urged that the petition deserves to be allowed and the petitioner deserves to be granted benefit of regular bail.

5. Status report has been filed by the respondent-State. It is submitted therein and learned Deputy Advocate General, Punjab has vehemently argued that the petitioner is not entitled to get benefit of bail as a commercial quantity of the contraband was recovered from him. The complicity of the petitioner in the subject offences has been *prima facie* established during investigation. He is part of a gang, which is involved in sale/purchase of narcotic and psychotropic substances. 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 him. The trial is going on at a proper pace. If the petitioner is released on bail, he can abscond or indulge in similar offences. Hence, it is urged that the petition is liable to be dismissed.

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

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7. As per the allegations, the petitioner was apprehended by the police party on 11.03.2024 and recovery of 100 grams of heroin was effected from him. Thereafter, on his disclosure, some other persons were also nominated in this case and recovery of 150 grams ice (*Methamphetamine*) as well as an amount of Rs. 8,00,000/- of drug money was effected in this case. On the disclosure of the petitioner, further recovery of 160 grams of heroin from an i-20 car and a pistol of .32 bore along with 04 live cartridges was also effected. The allegations against the petitioner are quite serious in nature. 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 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. The apprehension of learned Deputy Advocate General, Punjab that if extended benefit of bail, the petitioner may abscond or indulge in similar offences cannot be stated to be unfounded. Trial is going on and there is nothing on record to suggest that there would be any undue delay in conclusion of trial. The petitioner has placed on record copy of the recovery memo and learned counsel for the petitioner has argued that there were several lacunas in the investigation. However, these questions cannot be looked into at this stage while deciding a bail petition as the same is to be decided by the learned trial Court after appreciating the entire evidence and material placed on record before it. Hence, keeping in view the gravity of allegations as levelled against the petitioner, the quantity of the contraband recovered from him, the

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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.

8. 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.

19.02.2025
Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No