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

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CRM-M-64979-2024 (O&M)
Date of decision: 24.02.2025

Baljit Ram @ Bagga ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Raghav Goyal Chandiwalla, 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 by the petitioner for grant of regular bail in case bearing FIR No. 47 dated 23.03.2023, registered under Section 22-C of the Narcotic Drugs and Psychotropic Substances Act, 1985 (*for short 'NDPS Act'*) at Police Station Kabarwala, District Sri Muktsar Sahib. The first petition, bearing number CRM-M-48169-2023, was dismissed by this Court by passing a detailed order. The operative part of the order dated 06.08.2024 reads as under:

“6. The petitioner was apprehended by the police party on 23.03.2023 and recovery of 50 intoxicant tablets, namely Apiz 0.5 (Etizolam), was effected from him, which falls under the commercial quantity. The petitioner is shown to be involved in two more FIRs under the NDPS Act. As regards the arguments advanced by learned counsel for the petitioner with regard to non-compliance of the statutory provisions of the Act during investigation by the police party, the same have direct bearing on the merits of the case, which cannot be looked into at this stage while deciding a bail petition filed under Section 439 of Cr.P.C. A perusal of the report of the Medical Officer of the jail concerned

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shows that though the petitioner is having some medical problems of headache, insomnia, anxiety and depressive illness but he has been provided proper medical treatment at GGS Govt. Medical Hospital, Farikot and presently, his medical condition is stable, conscious and he is well oriented to time, place and person. There is nothing on record to show that there would be any undue delay in conclusion of trial. Keeping in view the discussion as made above, the quantity of recovered contraband, the antecedents of the petitioner, 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 the petitioner does not deserve to be granted benefit of regular bail, at this stage. Hence, the petition is dismissed.”

2. In addition to the arguments raised in the first petition, learned counsel for the petitioner has argued that the vehicle used by the police was not a govt. vehicle and it was a private vehicle. In this regard, he has placed reliance upon certain judgments to submit that there are numerous judgments wherein the accused has been released on bail when it transpired that the vehicle used by the police, who apprehended the accused and effected recovery, was the private one. The petitioner has placed on record a copy of judgment dated 18.10.2019 to show that he has been acquitted by the learned appellate Court in a similar case. He has also argued that the extended period of incarceration has entitled the petitioner to be released on bail and therefore, it is urged by him that the petition deserves to be allowed.

3. *Per contra*, it is argued by learned counsel for the respondent-State, that the previous petition as filed by the petitioner was dismissed by passing a detailed order by this Court by taking into consideration the contentions raised by both sides. It is submitted that no new change in the circumstances has been pointed out. The mere extended period of incarceration alone is not sufficient to

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grant benefit of bail to the petitioner. A perusal of the FIR would show that the vehicle, which was used by the police party, was a govt. vehicle and not the private one. Therefore, it is urged that the petition does not deserve to be allowed.

4. I have heard learned counsel for the petitioner as well as learned State counsel at considerable length and have gone through the record carefully.

5. The previous petition as filed by the petitioner for grant of regular bail had been dismissed vide order dated 06.08.2024. The instant one has been filed within a period of four months of the said order. It is well settled proposition of law that when successive bail applications come before the Court, the Court should be very cautious while considering the same. Successive bail applications can be entertained by the Court when some substantial change is established by the accused thereby making him entitled for grant of bail. Reference in this regard can be made to ***State of Maharashtra Vs. Captain Buddhikota Subha Rao, AIR 1989 Supreme Court, 2292***, wherein it was observed so and it was further held that the Court should not pass an order of release of an accused on bail in successive bail application merely establishing some cosmetic change between time gap of two applications. There must be some drastic change during the period between two applications. Reference can also be made to ***Kalyan Chandra Sarkar Vs. Rajesh Ranjan @ Pappu Yadav and another (2004) 7 SCC 528***, wherein it was observed by Hon'ble Supreme Court that where the offence alleged against an accused is grave, bail cannot be granted only on the ground of long incarceration.

6. After hearing the contentions as raised by learned counsel for the petitioner, I am of the considered opinion that no substantial or drastic change

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from the date of dismissal of the previous petition as moved by the petitioner has been pointed out or made out from the pleas taken by the petitioner. Merely the extended/prolonged period of incarceration or examination of some material witnesses is not a ground to extend any such benefit. So far as the claim of the petitioner that the vehicle used by the police party was not the govt. vehicle is concerned, a bare perusal of the FIR reveals that when a written information was received from HC Mandeep Singh to the effect that he along with other police officials was present at the barricading regarding search operation of intoxicant substances, they noticed the petitioner coming on the aforementioned vehicle and apprehended him, the police party headed by SI Pritpal Singh reached at the spot in govt. vehicle make Scorpio bearing registration number PB-30G-2972. Hence, it cannot be said that the police party had used private vehicle. More so, the petitioner seems to be a habitual offender as he is involved in one more case under the NDPS Act and in two other cases under the provisions of IPC. There are serious and specific allegations against the petitioner. The trial is also going on at a good pace and there is nothing to show that there would be any undue delay in conclusion of the same. Keeping in view the nature and gravity of the offence, in my considered opinion, it is not a fit case to enlarge the petitioner on bail, especially in view of the fact that no drastic or material change in the circumstances has been made out. In view of the discussion as made above, I am of the considered opinion that the petition does not deserve to be allowed. Hence, the same is dismissed.

7. It is made clear that the observations made hereinabove are only for the purpose of deciding the present petition and the same shall not be construed as an expression of opinion on the merits of the case.

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24.02.2025
Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No