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

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CRM-M-64460-2024 (O&M)
Date of decision: 08.01.2025

Abhishek Shahi **...Petitioner**

Versus

State of Punjab **...Respondent**

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Ravi Rana, Advocate
for the petitioner.

Ms. Swati Batra, Deputy Advocate General, Punjab.

MANISHA BATRA, J. (Oral)

1. This petition has been filed by the petitioner under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 (*for short* 'BNSS') seeking regular bail in case arising out of FIR No. 192 dated 31.12.2023, registered under Section 21 of Narcotic Drugs and Psychotropic Substances Act, 1985 (*for short* 'NDPS Act') at Police Station Doraha, District Ludhiana.
2. Brief facts of the case relevant for the purpose of disposal of this petition are that on 31.12.2023, the petitioner along with co-accused Saggar Thakur and Akashdeep Singh were apprehended by a police party while they were coming on a motorcycle and recovery of 260 grams of heroin was effected from them. They were formally arrested at the spot. After completion of necessary investigation and usual formalities, *challan* was presented before the Court concerned and presently, the petitioner along with the co-accused is facing trial for commission of aforesaid mentioned offence. He had moved an

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application before the learned trial Court for grant of regular bail but the same had been dismissed, vide order dated 10.12.2024.

3. Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in this case. In fact, the recovery of the alleged contraband, shown to have been effected from the petitioner and co-accused, was planted by the police officials. No independent witness was joined at the time of effecting alleged recovery from the petitioner. The story put forth by the police party is concocted one. Apart from this, it is also argued that the mother of the petitioner is not maintaining good health and there is no one in the family to look after her. In support of this claim, the petitioner has placed on record certain photographs of his mother showing that she is admitted in the hospital and needs proper care, which would only be possible if the petitioner is released on bail. It is also argued that investigation has since been completed and *challan* has been presented. The trial is likely to take a long time. The petitioner is in custody since 31.12.2023. No useful purpose would be served by keeping him in custody anymore. It is, therefore, urged that the petition deserves to be allowed.

4. *Per contra*, learned Deputy Advocate General, Punjab has argued that the petitioner was apprehended by the police party on 31.12.2023 along with the above named co-accused and recovery of 260 grams of heroin was effected from them, which falls under the commercial quantity. During the course of recovery and further investigation, proper procedure as prescribed under the NDPS Act was followed. It is submitted that since a commercial quantity of the contraband has been recovered from the petitioner and co-accused, the rigors of Section 37 of the NDPS Act would be attracted in this case. He is involved in

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one more case under the NDPS Act. The trial in the present case is going at a proper pace and it is at the fag end as out of 12 prosecution witnesses, only 02 witnesses are left to be examined. It is also argued that if the petitioner is released on bail, he may abscond or indulge in the similar offences. It is, thus, argued 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 31.12.2023 along with aforesaid co-accused and recovery of 260 grams of heroin was effected from them, which falls under the commercial quantity. Hence, the rigors of Section 37 of the NDPS Act would certainly be attracted against the petitioner. As regards the arguments advanced by learned counsel for the petitioner with regard to non-compliance of the statutory provisions of the NDPS 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 483 of BNSS. So far as the claim of the petitioner that his mother is not maintaining good health and she needs proper care by the petitioner is concerned, the same cannot be looked into at this stage as the trial is at its fag end and there is nothing on record to show that there would be any undue delay in conclusion of trial. The apprehension expressed by learned Deputy Advocate General, Punjab that the petitioner, if extended benefit of bail, may abscond or indulge in similar offences can also not be stated to be unfounded as he is shown to be involved in one more case of similar nature. Keeping in view the discussion as made above, the quantity of recovered

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contraband, 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.

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.

08.01.2025

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No