

2025:PHHC:061759



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

CRM-M-28732-2024 (O&M)

Reserved on : 08.05.2025

Pronounced on : 13.05.2025

Rajwinder Ram

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Raghav Goyal, Advocate
for the petitioner.

Ms. Sakshi Bakshi, AAG, Punjab.

MANISHA BATRA, J.

1. Prayer in this petition, filed under Section 439 of Cr.P.C., is for grant of regular bail to the petitioner in FIR No. 173 dated 29.11.2023, registered under Section 22-C of the Narcotic Drugs and Psychotropic Substances Act, 1985 (*for short 'NDPS Act'*) and Section 182 and 192 of Motor Vehicle Act, 1988 at Police Station Kabarwala, District Sri Muktsar Sahib.

2. Brief facts of the case relevant for the disposal of the present petition are that on 29.11.2023, the petitioner, while coming on a motorcycle bearing registration number PB-03-BB-5444, was apprehended by a police party headed by ASI Gurmeet Singh and recovery of 30 tablets of Etizolam was effected from him. Since the petitioner could not produce any permit/license to keep in his possession the recovered drugs, he was formally arrested at the spot. Offence under Sections 182 and 192 of Motor

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Vehicle Act, 1988 were also added as the petitioner could not produce any driving license and registration certificate of the said motorcycle. 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 moved an application for grant of regular bail before the trial Court but the same had been dismissed, vide order dated 01.05.2024.

3. Learned counsel for the petitioner has argued that he has been falsely implicated in this case. A false recovery has been planted upon him. The mandatory provisions of Section 50 of the NDPS Act were not complied with. Although, the petitioner had been falsely implicated in five more cases of similar nature but he is on bail in one case and in one other case, he has been discharged. In rest of the three cases, he has been convicted for the period already undergone by him. The petitioner is in judicial custody since 29.11.2023. The trial is likely to take time to conclude. 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 vehemently argued that the petitioner is not entitled to get benefit of bail as he was nabbed at the spot and commercial quantity of the contraband was recovered from his possession. FSL report has been received, as per which, salt *Etizolam* was found in the sample parcel and the total weight of the tablets was found to be 05.22 grams, which falls under commercial quantity.

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His claim regarding false implication and plantation of the recovered contraband is concocted one. It is further argued that since the recovery of the contraband effected from the petitioner falls under the commercial quantity and he is involved in one more case under the NDPS Act, the rigors of Section 37 of the NDPS Act would be attracted against. The petitioner is a habitual offender as he is involved in multiple cases under the NDPS Act. The trial may be expedited. It is also argued that 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.

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 and the recovery of 30 intoxicant tablets of *Etizolam* was effected from him. As per FSL report, the total weight of the recovered contraband falls within the ambit of commercial quantity. Hence, rigors of Section 37 of the NDPS Act would certainly be attracted against the petitioner. A perusal of the custody certificate of the petitioner as well as the status report reveals that he is involved in five more case under the NDPS Act. Although, in some of the cases, he has undergone the sentence awarded to him but his implication in multiple cases establishes the fact that he is a habitual offender. The apprehension of learned State counsel that if extended benefit of bail, the petitioner may indulge in drug smuggling again cannot be stated to be unfounded keeping in view his criminal antecedents. The arguments raised by learned counsel for the petitioner with regard to flaws in investigation cannot be looked into at this stage as the same is to be decided

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by the learned trial Court after appreciating the entire evidence and material placed on record before it. Therefore, keeping in view the gravity of allegations as levelled against the petitioner, the quantity of alleged contraband recovered from him, the quantum of sentence which the conviction may entail and the attendant facts and circumstances of the case, this Court is 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.

13.05.2025*Wassem Ansari***(MANISHA BATRA)
JUDGE***Whether speaking/reasoned**Yes/No**Whether reportable**Yes/No*