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

**CRM-M-46751-2024 (O&M)
Reserved on : 21.02.2025
Pronounced on : 25.02.2025**

Pamesh Arora

...Petitioner

Versus

U. T., Chandigarh

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Arjun Dosanj, Advocate
for the petitioner.

Mr. Manish Bansal, Public Prosecutor,
U. T., Chandigarh for the respondent.

MANISHA BATRA, J.

1. CRM-7473-2025

Allowed as prayed for.

Documents are taken on record.

2. CRM-M-46751-2024 (O&M)

The instant petition has been filed by the petitioner under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 (*for short 'BNSS'*) for grant of regular bail in case bearing FIR No. 09 dated 08.02.2024, registered under Sections 21 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 Sector 34, Chandigarh.

3. Brief facts of the case relevant for the disposal of the present petition are that on 07.02.2024, a police party headed by SI Jasbir Singh was on patrolling duty in the area of Sector 45, Chandigarh. A secret information

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was received to the effect that one Harjinder Singh @ Billa and petitioner Pamesh Arora were indulge in supply of drugs and at that time they were present near Civil Hospital, Sector 45 and were selling drugs. Believing the information to be reliable, the police party reached at the informed place and noticed two persons standing in a narrow street, who were having small shoulder bags. Both of them were apprehended. On interrogation, they disclosed their names as 'Harjinder Singh @ Billa' and 'Pamesh Arora', who is the present petitioner. On conducting search of the shoulder bag of the present petitioner, recovery of 271.65 grams of heroin was effected, whereas from the shoulder bag of the co-accused, 20.62 grams of heroin and a country made pistol along with four live cartridges were recovered. They were formally arrested at the spot. After completion of necessary investigation and usual formalities, *challan* was presented in the Court on 25.07.2024 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 23.05.2024.

4. Learned counsel for the petitioner has argued that he has been falsely implicated in this case. There is nothing on record to connect the petitioner with the subject crime. In fact the petitioner and co-accused were picked on 07.02.2024 at around 7:55 PM from Sector 45 by 5-6 persons, who were in civil uniforms and the same has been recorded in the CCTV camera, installed at the place. The alleged recoveries have been planted upon the petitioner and co-accused. No independent witness was joined by the police party. The mandatory provisions of Sections 42 and 50 of the NDPS

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Act were not complied with properly. Even the notice issued under Section 42 of the NDPS Act was tampered with as the word 'Magistrate' was added later on. Even otherwise, investigation has since been completed and *challan* has been presented. The petitioner is in judicial custody since 07.02.2024. 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-U. T., Chandigarh. It is submitted therein and learned Public Prosecutor, Chandigarh has vehemently argued that the petitioner is not entitled to get benefit of bail as he was apprehended at the spot along with above named co-accused. Recovery of 271.65 grams of heroin was effected from the petitioner, apart from 20.62 grams of heroin and one country made pistol along with four live cartridges, which were recovered from the co-accused. The criminal antecedents of the petitioner are not clean as he is involved in one more case under the NDPS Act. There are serious allegations against him. He is regularly involved in sale and purchase of narcotic substances. It is further argued that since the quantity of the contraband recovered in this case falls under the commercial quantity, the rigors of Section 37 of the NDPS Act would be attracted against the petitioner. 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. This Court has heard learned counsel for the parties at considerable length and has also perused the material placed on record.

7. As per the allegations, the petitioner and the co-accused were

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apprehended by the police party on 07.02.2024 and recovery of 271.65 grams of heroin was effected from the petitioner, whereas 20.62 grams of heroin and a country made pistol along with four live cartridges were recovered from the co-accused. The petitioner is shown to be involved in one more case under the NDPS Act, which *prima facie* shows that he is a habitual offender. The allegations against him are that he is regularly involved in the sale and purchase of narcotic substances, which are quite serious in nature. Even otherwise, 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. Although, learned counsel for the petitioner has placed on record sworn deposition of SI/IO Jasbir Singh to submit that there were several lacunas in the investigation with regard to compliance of procedure as prescribed under Sections 42 and 50 of the NDPS Act and has also argued that even the contents of the FIR would show that the provisions of these sections were not properly complied with, however, these questions cannot be decided by this Court at this stage as this Court is not supposed to conduct a mini trial while deciding a petition seeking grant of regular bail. These questions have to be decided by the learned trial Court after appreciating the entire evidence and material produced on record before it. Since the petitioner has criminal antecedents, the apprehension of learned Public Prosecutor, Chandigarh that if extended benefit of bail, the petitioner may abscond or indulge in similar offences

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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. Hence, keeping in view the gravity of allegations as levelled against the petitioner, the quantity of the contraband recovered in this case, 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.

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.

25.02.2025

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