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

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**CRM-M-55808-2024 (O&M)
Date of decision: 27.02.2025**

Rajender Parsad

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Mohammad Arshad, Advocate
for the petitioner.

Mr. Neeraj Poswal, AAG, Haryana.

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. 289 dated 19.09.2022, registered under Section 20(2)(C) of the NDPS Act, 1985 at Police Station Dhauj, District Faridabad. The first petition, bearing number **CRM-M-57968-2023**, was dismissed by this Court by passing a detailed order on 30.07.2023. The operative part of the order dated 30.07.2023 reads as under :

“6. On a perusal of the record, it reveals that the petitioner is in custody since 19.09.202. The alleged recovery effected from the petitioner was of commercial quantity. He was named in the secret information. There are serious and specific allegations against the petitioner. Since a commercial quantity of contraband was recovered from him, the rigors of Section 37 of the NDPS Act are

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certainly attracted in this case, which create a bar for grant of regular bail to the petitioner. There is nothing on record to suggest that there would be any undue delay in conclusion of trial. Keeping in view the gravity of allegations as levelled against the petitioner, the quantity of alleged contraband recovered from the petitioner, 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.”

2. In addition to arguments raised in the first petition, learned counsel for the petitioner has argued that the FSL report does not reveal the percentage of *tetrahydrocannabinol*. Hence, it cannot be said that the recovered substance was *Ganja*. In this regard, he has relied upon an order dated 04.03.2024 passed by the High Court of Madhya Pradesh in Misc. Criminal Case No. 7965-2011. The next argument which has been raised by learned counsel for the petitioner for grant of regular bail to the petitioner is that 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 Assistant Advocate General, Punjab 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. During the course of investigation, it has been found that the petitioner was indulged in smuggling of *Ganja*. The

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mere extended period of incarceration alone is not sufficient to grant benefit of bail to the petitioner. Allegations against the petitioner are quite serious in nature. Therefore, it is urged that the petition does not deserve to be allowed.

4. I have heard learned counsel for the parties 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 30.07.2024. 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

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change 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. So far as the claim of the petitioner that since the percentage of *tetrahydrocannabinol* is not mentioned in the FSL report, hence, it creates a right in favour of the petitioner to seek regular bail is concerned, a perusal of the FSL report reveals that it has been specifically reported that the samples were found positive for the presence of *Ganja* and also that the characteristics of *Ganja* were present in the sample. Hence, at this stage, it cannot be stated that the sample did not contain any contraband. Even otherwise, this Court is not supposed to conduct a mini trial while deciding a bail petition. Further, merely the extended/prolonged period of incarceration or examination of some material witnesses is not a ground to extend any such benefit. There are serious and specific allegations against the petitioner. During the course of investigation, on analysis of the call details record and tower location of the mobile phone of the petitioner, it has been found that he was present at Vishakhapatnam, from where he had purchased the contraband. 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.

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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.

27.02.2025

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No