

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

208

CRM-M-12483-2024

Date of decision: 31st January, 2025

Dolat Singh @ Harry

...Petitioner

Versus

State of Punjab

...Respondent

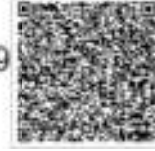
CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Amit Arora, Advocate for the petitioner.
Ms. Himani Arora, Assistant Advocate General, Punjab.

MANISHA BATRA, J (ORAL):-

1. The present petition has been filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') by the petitioner seeking grant of regular bail in case bearing FIR No. 87 dated 31.05.2023 registered under Sections 21(c) of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act') at Police Station Sirhali, District Tarn Taran.

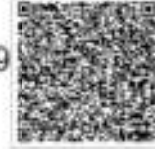
2. Brief facts of the case relevant for the disposal of the present petition are that on 31.05.2023, SI Iqbal Singh along with other police officials was on patrolling duty. When they reached at village Jandoke, the petitioner was spotted while coming from village side. On seeing the police party, he tried to turn his motorcycle but the motorcycle slipped and he fell down. He had thrown one polythene packet from the pocket of his lower. On suspicion, he was apprehended. Polythene packet was taken into custody and on checking, 300 grams of *heroin* was effected from the same. After



completion of necessary investigation and usual formalities, challan under Section 173(2) of Cr.P.C. was presented in the Court and presently, the petitioner is facing trial for commission of aforesaid mentioned offence. He had moved an application before the Court of learned Additional Sessions Judge, Tarn Taran for grant of regular bail but the same was dismissed, vide order dated 19.12.2023.

3. Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in this case. 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. There is nothing on record to connect the petitioner with the subject crime. He is in judicial custody since 31.05.2023. The trial is likely to take time. No useful purpose would be served by keeping him in custody anymore. It is, therefore, urged that the petition deserves to be allowed.

4. Custody certificate has been filed by respondent. Learned Assistant Advocate General, Punjab has argued that the petitioner was apprehended by the police party on 31.05.2023 and recovery of 300 gram of *heroin* was effected from him. As per FSL report, recovered *heroin* was found to be falling under the commercial quantity. Hence, the rigors of Section 37 of the NDPS Act would be attracted against him. During the course of recovery and further investigation, proper procedure as prescribed under the Act was followed. He has criminal antecedents as he is involved in two more cases under NDPS Act and one of IPC. There are chances of petitioner's absconding or committing similar offence, if extended benefit of bail. 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. The petitioner was apprehended by the police party on 31.05.2023 and recovery of 300 grams of *heroin* was effected from him. The said quantity of the contraband 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 439 of Cr.P.C. The trial is going at a proper pace and there is nothing on record to show that there would be any undue delay in conclusion of trial. The petitioner was nabbed at the spot and aforesaid recovery of contraband was effected from him. Keeping in view the criminal antecedents of the petitioner, the quantity of recovered contraband, the quantum of sentence which the conviction may entail and the attendant facts and circumstances of the case but without meaning to make any comment on the merits thereof, I am of the considered opinion that the petitioner does not deserve to be granted benefit of regular bail. Hence, the petition is dismissed.

7. Since the main petition has been dismissed, pending application, if any, is rendered infructuous.

[MANISHA BATRA]
JUDGE

31st January, 2025

Parveen Sharma

1. *Whether speaking/ reasoned*

: *Yes / No*

2. *Whether reportable*

: *Yes / No*