

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

228

2023:PHHC:143546

CRM-M-15007-2023 (O&M)

Date of decision: November 8th, 2023

Devi Lal @ Babbu

.....Petitioner

Versus

The State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. G.S. Dhindsa, Advocate
for the petitioner.

Mr. Digvijay Nagpal, Assistant Advocate General, Punjab.

MANJARI NEHRU KAUL, J.

Petitioner is seeking the concession of bail under Section 439 of the Code of Criminal Procedure, 1973 in case FIR No.165 dated 17.07.2021 registered under Sections 15, 22, 29 of the NDPS Act, registered at Police Station City Jalalabad, District Fazilka.

2. Learned counsel for the petitioner, *inter alia*, contends that recovery of 240 intoxicating tablets along with 650 grams of poppy husk was effected from the possession of co-accused Pritpal Singh, which is evident from a perusal of the FIR, which has been annexed as Annexure P-1; the petitioner was not named in the FIR in question nor any suspicion raised about his involvement in the crime in question, however, he was falsely implicated in the case in hand on the basis of a disclosure statement allegedly suffered by co-accused Pritpal Singh. It has been further submitted that the evidentiary value of such disclosure statement is of a weak nature and on this ground itself, the petitioner deserves to be extended the concession of bail as he has now been in custody since 03.03.2023, coupled with the fact that the investigation in

the case in hand is complete as challan also stands presented.

3. *Per contra*, learned State counsel while opposing the prayer and submissions made by the counsel opposite, has submitted that no doubt, the petitioner was not apprehended at the spot when recovery of 240 intoxicating tablets along with 650 grams of poppy husk was effected from co-accused Pritpal Singh, however, the petitioner's involvement in the crime in question came to the fore when co-accused Pritpal Singh was interrogated and he revealed that the petitioner was an accomplice and the contraband had been supplied to him by the petitioner. Learned State counsel has, on further instructions, submitted that the involvement of the petitioner in the sale and purchase of narcotic substances is further substantiated from the fact that he is involved in two other criminal cases including one under the NDPS Act, which was registered on 11.01.2021. Learned State counsel has further submitted that the petitioner was convicted under Section 22 of the NDPS Act in FIR No.9 dated 11.01.2017 on 02.09.2019. Thereafter, when his sentence was suspended, he was yet again involved in the instant case, hence, it was evident that the petitioner was a habitual offender and had misused the concession of bail, which had been granted to him after his conviction/after his sentence was suspended, following his conviction. Learned counsel has thus prayed for dismissal of the instant petition as there is every likelihood that the petitioner would yet again be involved in a similar crime. It has still further been submitted that after the challan was presented on 10.04.2023, even the charges have not yet been framed and are likely to be framed only on the next date of hearing.

4. I have heard learned counsel for the parties and perused the relevant material on record.

5. No doubt, the petitioner has been nominated as an accused on the basis of a disclosure statement suffered by co-accused, however, this Court cannot lose sight of the fact that the crime in question was committed by the petitioner after his conviction in another case registered under the NDPS Act, when his sentence was suspended following his conviction. Still further, it is not even the case, wherein the trial has not been progressing or has come to a standstill. The challan has already been presented and the charges are likely to be framed shortly as per the instructions received by the State counsel. Hence, there is no likelihood of the trial not concluding in the near future.

6. In the facts and circumstances as enumerated hereinabove, particularly keeping in view the criminal antecedents of the petitioner, this Court does not deem it fit to extend the concession of bail to the petitioner.

7. The instant petition, therefore, stands dismissed.

8. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

November 8th, 2023

Puneet

**(MANJARI NEHRU KAUL)
JUDGE**

Whether speaking/reasoned : Yes

Whether reportable : No