

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRM-M-28041-2023

Date of decision: 17.08.2023

Rakesh Kumar

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Vinay Puri, Advocate
for the petitioner.

Mr. I.P.S. Sabharwal, DAG, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner is seeking the concession of anticipatory bail under Section 438 of the Cr.P.C. in case FIR No.16 dated 21.02.2023 under Sections 20/29/61/85 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') registered at Police Station Talwara, District Hoshiarpur.

2. Learned counsel for the petitioner inter alia contends that he is being sought to be implicated in the instant case on the basis of a disclosure statement allegedly suffered by co-accused Soma Devi, from whom a recovery of 3 kgs of ganja was effected on 21.02.2023. It has been argued that the evidentiary value of such disclosure statement is of a weak nature and thus the custodial interrogation of the petitioner would not be required. Learned counsel submits that the petitioner was, however, still willing to join investigation and cooperate with the investigating agency.

3. Per contra, learned State counsel has vehemently opposed

the prayer made by the learned counsel for the petitioner. While drawing the attention of this Court to the status report filed by way of affidavit of Inspector Hargurdev Singh, Station House Officer, Police Station Talwara, District Hoshiarpur, it has been contended that the petitioner had been supplying ganja to various persons. The petitioner would be given a share from the sale proceeds of the ganja by all those persons. It has further been submitted that the petitioner is a habitual offender as he is involved in two other cases under the NDPS Act i.e. FIR No.17 dated 22.02.2023 under Sections 20/29/61/85 of the NDPS Act registered at Police Station Talwara, District Hoshiarpur and FIR No.81 dated 28.10.2022 under Sections 20/61/85 of the NDPS Act registered at Police Station Handesra, District SAS Nagar, while in another case FIR No.65 dated 05.06.2018 under Sections 20/61/85 of the NDPS Act registered at Police Station Kirtapur Sahib, District Ropar he was convicted. Learned State counsel has, therefore, asserted that it is evident that the petitioner is actively involved in the sale of narcotic substances.

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

5. The petitioner comes across as a habitual offender as it is a matter of record that there are two more cases pending against him under the NDPS Act, while in one case he has been convicted. In the facts and circumstances, the petitioner does not deserve the extraordinary concession of anticipatory bail.

6. Accordingly, the instant petition being devoid of any merit is dismissed.

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7. 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.

17.08.2023	(MANJARI NEHRU KAUL)
Vinay	JUDGE
Whether speaking/reasoned	: Yes/No
Whether reportable	: Yes/No