

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-62643-2023

Date of Decision: 19.12.2023

NITIN KUMAR @ PATA

...Petitioner

Vs.

STATE OF PUNJAB

...Respondent

CORAM:- HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Narinder S. Lucky, Advocate for the petitioner.

Mr. Rohit Ahuja, DAG Punjab.

HARSIMRAN SINGH SETHI, J. (Oral)

In the present petition, the prayer made is for grant of regular bail in FIR No. 09 dated 17.01.2023 registered under Section 21/61/85 of the NDPS Act as well as Section 25/54/59 of the Arms Act registered at Police Station City Kapurthala, District Kapurthala.

2. Leaned counsel for the petitioner argues that the petitioner has been falsely implicated in the present FIR. He further submits the as per the allegations alleged, 50 gms of heroin in transparent polythene bag has been recovered from the petitioner along with the drug money of Rs.32,000/. Learned counsel for the petitioner submits that thereafter on the alleged disclosure statement of the petitioner, an illegal weapon has also been recovered. Learned counsel argues that all the allegations are false and fabricated and the petitioner has nothing to do with the same. He further submits that as the petitioner is behind bars since 17.01.2023, and the trial is

likely to take sometime to conclude, the petitioner be granted the benefit of regular bail especially when the quantity of the contraband is not commercial in nature. He further submits that the recovery of the pistol is done from the house which has already been sold by the petitioner, and, the said fact shows that recovery has wrongly been put upon the petitioner.

3. Learned counsel for the respondent submits that there are other cases which are also being faced by the petitioner and the petitioner is also involved in FIR No. 200 dated 04.06.2019 registered under Sections 21/61/85 of the NDPS Act in which the petitioner was on bail at the time of the present alleged offence. He further submits that apart from the said case under the NDPS Act, the petitioner is also facing another case being FIR No. 50 dated 20.12.2014 under Section 323, 324, 341, 148 & 149 IPC. Learned State counsel submits that keeping in view the track record of the petitioner, who seems to be a habitual offender, no concession of bail is to be granted to the petitioner from this Court especially the grant of regular bail.

4. I have heard learned counsel for the parties and have gone through the record with their able assistance.

5. One fact which is disturbing is that the petitioner is alleged to have committed the second offence while on bail. The petitioner was given bail though the allegation alleged against the petitioner related to the violation of NDPS Act. The action of the petitioner shows that he has a tendency to commit the same crime again even while on bail, hence keeping in view the fact that the stringent view needs to be taken when the violation of the NDPS Act is alleged, the grant of bail to the petitioner in the facts and circumstances will not be in the interest of public at large.

6. Further, qua the arguments that allegations alleged against the petitioner are false and the recovery has been wrongly imposed upon him, same is a matter of evidence which will come on record during trial, and at this stage same needs no comment of this Court.

7. Keeping in the view facts mentioned hereinbefore, no ground for regular bail to the petitioner at this stage is made out.

8. At this stage, learned counsel for the petitioner submits that the benefit of bail has been granted where the accused is involved in similar other cases. The grant of bail to the others cannot be made as a precedent as each and every case is to be determined on the facts and circumstances of a particular case and in the present case, the petitioner is alleged to have violated the NDPS Act while on bail in the same, petitioner again allegedly committed violation of NDPS Act. Not only this, petitioner is also facing one more FIR hence, the reliance being placed that the benefit of bail has been granted where the accused has been facing trial in more than one case will not be a valid precedent to be applied in the facts and circumstances of the present case.

9. Dismissed.

(HARSIMRAN SINGH SETHI)
(JUDGE)

19.12.2023

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Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No