

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-7847-2024
Decided On: 04.03.2024

VISHAL KUMAR @ BOBBY

.....PETITIONER(s)

Versus

STATE OF PUNJAB

.....RESPONDENT(s)

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Ashish Aggarwal, Advocate
for the petitioner.

Mr. Navdeep Singh, DAG, Punjab.

MANJARI NEHRU KAUL, J.(Oral)

1. The instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in case FIR No.168 dated 06.07.2022 under Sections 22 and 29 of NDPS Act registered at Police Station Jandiala, District Amritsar Rural.
2. Learned counsel for the petitioner *inter alia* contends that the petitioner was neither apprehended at the spot nor any recovery of contraband effected from him after he was arrested on 28.07.2023; it has been submitted that the petitioner came to be nominated as an accused on the basis of a disclosure statement allegedly suffered by co-accused Lakhwinder Singh @ Lakhu, from whom recovery of 4995 intoxicating capsules was allegedly effected. Learned counsel for the petitioner submits that after the petitioner was nominated as an accused in the instant case, he approached the learned trial Court for being extended the concession of anticipatory bail. The learned trial Court vide order dated 21.07.2022 (Annexure P-2), first

extended the concession of interim bail by placing reliance upon the parameters laid down by the Division Bench of this Court in *Inderjit Singh @ Laddi Versus State of Punjab (CRM-M-13140-2012)*, thereafter, on 03.08.2022, the aforesaid order was made absolute. Learned counsel for the petitioner further submits that strangely thereafter, when the challan was presented, learned trial Court erroneously cancelled his bail bonds, as a result of which, the petitioner was then arrested on 28.07.2023. Learned counsel for the petitioner has still further submitted that since the investigation in the case in hand is complete and prosecution evidence is underway, his further incarceration would serve no useful purpose. It has also been submitted that it is also a matter of record that when the petitioner was extended the concession of anticipatory bail by the learned trial Court, he had never misused the said concession.

3. *Per contra*, learned State counsel, while opposing the prayer and submissions made by the learned counsel for the petitioner, on instructions from ASI Durlab Darshan Singh, has not disputed the submissions made by the learned counsel for the petitioner qua he being enlarged on anticipatory bail vide order dated 03.08.2022. It has also not been disputed by the learned State counsel that no recovery of any contraband was effected from the petitioner. However, it has been submitted that in the disclosure statement suffered by co-accused namely Lakhwinder Singh @ Lakhu, the name of the petitioner cropped up and it was stated that the recovered contraband had been procured through him. On a pointed query, learned State counsel, on further instructions, has not disputed that while the petitioner was on anticipatory bail, he had not misused the said concession.

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

5. The petitioner has been in custody since 28.07.2023, the trial is unlikely to conclude in the near future, coupled with the fact that he came to be nominated as an accused on the basis of a disclosure statement of the co-accused, whose evidentiary value is of a weak nature.
6. In the facts and circumstances as enumerated hereinabove, this Court deems it fit to extend the concession of bail to the petitioner. Accordingly, the instant petition is allowed; the petitioner be admitted to bail to the satisfaction of the trial Court/Duty Magistrate concerned.
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.
8. Needless to add here, in case, the petitioner is found misusing the concession of bail, the State would be at liberty to approach this Court to seek cancellation of bail to him.

04.03.2024

Aman Dua

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned?
Whether reportable?

Yes/No
Yes/No