

CRM-M-10047-2024

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(227) IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-10047-2024
Date of Decision:24.04.2024

ASHOK KUMAR @ SUKHA

... Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Saurav Bhatia, Advocate
for the petitioner.

Mr. Harkanwar Jeet Singh, Asstt. A.G., Punjab.

JASJIT SINGH BEDI, J.

This 3rd petition under Section 439 Cr.PC is for the grant of regular bail in case FIR No.75 dated 04.08.2019 registered under Section 15 of the NDPS Act and (Section 29 of the NDPS Act added later on) at Police Station Sadar Nawanshahr, SBS Nagar.

2. The brief facts of the case are that Ashok Kumar @ Sukha (petitioner) son of Kewal Singh, Makhan Singh @ Gaggu @ Gagan son of Pardeep Kumar and Harman @ Hamma @ Boota son of Balvir Singh came to be apprehended with 200 Kgs of poppy husk.

3. The petitioner was granted the concession of regular bail by this Court vide order dated 11.06.2020 (Annexure P-2). Similarly, co-accused Makhan Singh @ Gaggu @ Gagan was also granted the said concession vide order dated 08.07.2020 (Annexure P-3).

4. Meanwhile, the petitioner came to be arrested in another case bearing FIR No.223 dated 01.12.2020 under Section 22C of the NDPS Act,

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P.S. Garshankar, District Hoshiarpur. As the petitioner did not appear during the proceedings in the instant case, his bail was cancelled.

5. Thereafter, he is stated to have surrendered before the Trial Court in the instant case on 06.07.2023.

6. The learned counsel for the petitioner contends that as the petitioner had been granted the concession of bail by this Court vide order dated 11.06.2020 (Annexure P-2) but his bail stood cancelled as he had been taken into custody in another case after which he had surrendered in the instant case on 06.07.2023, he was entitled to the concession of regular bail once again.

7. A reply dated 24.04.2024 by way of an affidavit of Madhvi Sharma, PPS, Deputy Superintendent of Police, Sub Division Nawanshahr, District SBS Nagar has been filed on behalf of the State by the learned counsel for the State. The same is taken on record. While referring to the reply, he contends that the petitioner was a habitual offender. Apart from the present case, he was involved in two other cases bearing FIR No.69/2012 dated 08.08.2012 U/s 15 of the NDPS Act, P.S. Chabewal and FIR No.223 dated 01.12.2020 under Section 22C of the NDPS Act, P.S. Garshankar, District Hoshiarpur, in which he stood convicted. Furthermore, 12 of the 15 prosecution witnesses already stood examined. Therefore, the petitioner was not entitled to the concession of regular bail.

8. I have heard the learned counsel for the parties.

9. Though the petitioner was granted the concession of bail on 11.06.2020, In the instant case, he was involved in two other cases bearing FIR No.69/2012 dated 08.08.2012 U/s 15 of the NDPS Act, P.S. Chabewal

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and FIR No.223 dated 01.12.2020 under Section 22C of the NDPS Act, P.S. Garshankar, District Hoshiarpur, in which he stood convicted. In fact, in FIR No.223 dated 01.12.2020, he came to be involved when he was on bail in the present case. Therefore, clearly, the petitioner is a habitual offender and Section 37 of the NDPS Act would be a bar to the grant of bail to him. Additionally, as many as 12 of the 15 prosecution witnesses already stand examined. As such, the Trial is at the fag-end. Furthermore, the petitioner had earlier filed a petition for the grant of regular bail which came to be dismissed as withdrawn as recently as on 21.11.2023. No change in circumstances have been pointed out by the petitioner entitling him to the grant of bail. Therefore, at this stage, the question of granting of bail to the petitioner does not arise.

10. In view of the above, I find no merit in the present petition. Therefore, the same stands dismissed.

11. However, the Trial Court is directed to conclude the Trial against the petitioner not later than three months from the next date fixed before it.

(JASJIT SINGH BEDI)
JUDGE

24.04.2024

JITESH

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