



CRM-M-23013-2024

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH
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CRM-M-23013-2024

Date of Decision: May 14, 2024

Gurpreet Singh @ Tota

.... Petitioner

Versus

State of Punjab

.... Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: - Mr. Arjun Veer Sharma , Advocate
for the petitioner.

Mr. Rohit Ahuja, DAG., Punjab.

HARSIMRAN SINGH SETHI, J. (ORAL)

1. The present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR No.20 dated 11.03.2021 registered under Section 22-C of NDPS Act, 1985 and also charge had been framed under Section 22 (b) of NDPS Act, 1985 at Police Station Harike, District Tarn Taran.

2. Learned counsel for the petitioner submits that the petitioner is behind bars for more than three years and there is a delay in concluding the trial hence, the petitioner should be granted the benefit of regular bail. Learned counsel for the petitioner further submits that Section 42 of the NDPS Act, 1985 has been violated while arresting the petitioner hence, on this ground also the petitioner is entitled to grant of concession of regular bail.

3. Learned counsel for the respondent submits that in the present case, no seizure has been made from any building, conveyance or any enclosed place hence, Section 42 of NDPS Act, 1985 will not come into operation and further, with regard to the prayer of learned counsel for the petitioner for grant of



concession of regular bail only on the ground that the petitioner has undergone incarceration for more than three years, it may be noticed that the petitioner is a habitual offender and there are five pending cases relating to the violation of NDPS Act, 1985 and one case relates to the violation of Excise Act, hence, the petitioner should not be granted the concession of regular bail.

4. Learned counsel for the petitioner has not been able to rebut the submissions of the learned State counsel. I have heard learned counsel for the parties and have gone through the record of the case with their able assistance.

5. The drug menace needs to be dealt with strictly while considering the plea for the release of an accused against whom, the allegations of violation of NDPS Act, 1985 has been made. In the present case, the petitioner is a habitual offender who is involved in five cases relating to the violation of NDPS Act, 1985 and one case relates to Excise Act.

6. Further, the present allegations have come into being after the petitioner was granted the concession of regular bail in another case where the petitioner pleaded that he will not commit any illegality or irregularity henceforth. A person committing the offence while on bail has to be treated most stringently as compared to a first time offender.

7. In the present case, the Court accepted the plea of the petitioner for grant of regular bail while dealing with the earlier cases of violation of NDPS Act, 1985 so as to grant him concession of regular bail but the petitioner chose to maintain the same habits so as to violate the provisions of NDPS Act, 1985 and got involved in the present case. Keeping in view the facts and circumstances of the present case merely that the petitioner has undergone 3 years of custody, cannot be taken as a ground for the grant of regular bail.



8. With regard to the contention of the learned counsel for petitioner that Section 42 of the NDPS Act, 1985 has been violated, the said plea cannot be accepted. It is a conceded position that as per the FIR, the contraband, which was being held by the petitioner was thrown on the ground after seeing the police party and he tried to run away. The same has not been recovered from any enclosed place or the building hence, the violation being alleged of Section 42 of the NDPS Act, 1985 is prima facie not made out so as to grant the concession of regular bail to the petitioner. No other argument has been raised by learned counsel for the petitioner.
9. No ground is made out for grant of regular bail to the petitioner. The present petition is dismissed.

May 14, 2024
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No