

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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1. CRM-M-33069-2023
Date of decision: 07.02.2024

Subhash Kumar alias PassiPetitioner

Versus

State of PunjabRespondent

2. CRM-M-32458-2023
Date of decision: 07.02.2024

Gaurav KumarPetitioner

Versus

State of PunjabRespondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Gurpal Singh Sandhu, Advocate
for the petitioners.

Mr. Mohit Kapoor, Addl. A.G., Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioners are seeking the concession of bail under Section 439 of the Cr.P.C. in case FIR No.028 dated 21.02.2023 under Sections 22(A), 20(A) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') registered at Police Station Gidderbaha, District Sri Muktsar Sahib.

2. On a pointed query put to the learned counsel for the petitioners as to what was the material change in circumstances after the withdrawal of the previous petition filed by petitioner Subhash Kumar alias Passi wherein similar relief had been sought, on 01.06.2023, he has submitted that the trial had not concluded as only

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charges had been framed till date. It has been further submitted that a false and fabricated case has been planted upon the petitioners for having been found in possession of 140 grams of ganja (small quantity) along with 50 tablets of Etizolam respectively when they were nabbed by the police on suspicion. Learned counsel submits that keeping in view the quantity of the contraband recovered, further incarceration of the petitioners would not be justified since the trial would take considerable time to conclude. He has further submitted that no doubt petitioners are involved in other cases, however, petitioner Subhash Kumar alias Passi, has already undergone his sentence in one out of the three cases which were registered against petitioner him under the NDPS Act.

3. Per contra, learned State counsel while opposing the prayer and submissions made by learned counsel for the petitioner, has placed on record custody certificates of both the petitioners. It has been submitted by the learned State counsel, on instructions, that a perusal of custody certificates of both the petitioners, leaves no manner of doubt that the petitioners are habitual offenders and have criminal antecedents. The crime in question was committed by them while they were on bail in the other cases which already stood registered against them and, hence it is evident that the petitioners had misused the concession of bail. Learned State counsel has further submitted that when the alleged recoveries were effected, all the mandatory provisions of the NDPS Act were duly complied with. Still further, on instructions, learned State counsel has informed the Court that the next date fixed before the Trial Court is 28.02.2024 when prosecution evidence is

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likely to commence and since only 11 prosecution witnesses have been cited, there is every likelihood of the trial would not take much time to conclude.

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

5. In the facts and circumstances as enumerated hereinabove and keeping in view the criminal antecedents of the petitioners, this Court does not deem it fit to extend the concession of bail to the petitioners.

6. Accordingly, both the petitions are hereby dismissed.

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.

07.02.2024
Vinay

(MANJARI NEHRU KAUL)
JUDGE

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