

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.34343 of 2023
Date of decision: 23rd January, 2024

Makhan Singh
... Petitioner

Versus

State of Punjab
... Respondent

CORAM: HON’BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Ashish Soi, Advocate for the petitioner.
Mr. Arun Luthra, Dy. Advocate General, Punjab
for the respondent/State.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner is seeking the concession of bail under Section 438 Cr.P.C. in case FIR No.304 dated 26.11.2022 under Sections 21, 21-B, 21-C, 27 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 registered at Police Station STF Phase-4, District Mohali.
2. On the last date of hearing, i.e. 29.11.2023, while noticing the following submissions made by learned counsel for the petitioner, a Coordinate Bench of this Court had granted the concession of interim bail to the petitioner and asked him to join investigation.

“Learned counsel for the petitioner has argued that the petitioner is innocent and has been falsely implicated in the present case. The petitioner has been nominated as accused in this case on the basis of disclosure statement of co-accused Tarun Sidhu @ Tanu Sidhu, who was arrested at the spot. A

recovery of 365 gm of heroin is alleged to have been effected from the said co-accused. It is further submitted that apart from the disclosure statement, there is no other material connecting the petitioner with the commission of offence. The petitioner is ready to join investigation and cooperate with the investigating agency.

Upon notice, learned State counsel opposes the bail by referring to the status report dated 31.10.2023 filed in this case, mentioning that the petitioner is involved in 02 other cases, out of which, one is under the NDPS Act. It is, thus, submitted that petitioner is a habitual offender. However, he does not dispute that petitioner has been enlarged on bail in the said cases.”

3. Learned counsel for the petitioner submits that in compliance of the order dated 29.11.2023, the petitioner has joined investigation and cooperated with the investigating agency. A prayer has, therefore, been made to make the aforementioned order absolute.

4. Learned State counsel, on instructions from Inspector Gurcharan Singh, does not dispute the factum of the petitioner having joined investigation. However, on further instructions, he has submitted that petitioner is a man of criminal antecedents as he is involved in two other cases under the NDPS Act. Learned State counsel has further submitted that co-accused Tarun Sidhu alias Tanu Sidhu, from whom the recovery of 365 grams of Heroin was effected, in his disclosure statement had revealed that the recovered contraband had been supplied to him by the petitioner. Learned State counsel hence, submits that keeping in view the criminal antecedents of the petitioner, it is evident that he is a habitual

offender and had also misused the concession of bail granted to him in the other cases, which stand registered against him.

5. I have heard learned counsel for the parties and perused the relevant material on record.

6. No doubt, the petitioner was nominated as an accused in the case in hand on the basis of a disclosure statement allegedly suffered by the co-accused, however, while deciding a petition for anticipatory bail, this Court cannot be expected to turn a blind eye to his criminal antecedents. Prima facie, the petitioner has misused the concession of bail granted to him in the other two cases which are pending against him. Thus, in the facts and circumstances as enumerated hereinabove, this Court does not deem it fit to extend the extraordinary concession of anticipatory bail to the petitioner in the instant case.

7. Dismissed.

8. 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.

(MANJARI NEHRU KAUL)
JUDGE

January 23, 2024
rps

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