



CRM-M-34078-2024

(1)

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

[244]

CRM-M-34078-2024

Date of decision: 23.07.2024

Subhash Kumar @ Passi

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Rahul Rampal, Advocate for the petitioner.

Mr. Amit Rana, Sr. DAG, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

1. This is a third petition filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No.28 dated 21.02.2023 for offence punishable under Sections 22(A) & 20(A) of the NDPS Act, registered at Police Station Gidderbaha District Sri Muktsar Sahib.

2. Learned counsel for the petitioner submits that the petitioner has been in custody since 21.02.2023, for having been found in possession of 140 grams of *Ganja*, which has been classified as small quantity under the NDPS Act. It has been argued by the learned counsel that the petitioner was allegedly apprehended on suspicion. Challan in the present case was presented on 04.07.2023 and charges were framed on 14.08.2023, however till date, only one prosecution witness out of 10 cited had been examined whereas another one had been partly examined.

3. Learned counsel for the petitioner while drawing attention of this Court to the zimni orders, which have been annexed as



Annexures P-1 to P-7, urged that it was on account of non-appearance of the prosecution witnesses that the trial had not yet concluded. Hence, the petitioner could not be made to languish in custody. It has been further argued that no doubt the petitioner is involved in some other cases under the NDPS Act, however, it is a matter of record that in couple of those cases, he has been acquitted.

4 *Per contra*, learned State counsel has opposed the prayer and submissions made by learned counsel for the petitioner. He has also drawn the attention of the Court to the custody certificate of the petitioner filed in Court today and submits that the petitioner is a man of criminal antecedents. It has also been submitted that the petitioner has been convicted in two cases under the NDPS Act. However, it has not been disputed by the learned State counsel, on instructions, that trial has not concluded yet on account of the repeated non-appearance of the prosecution witnesses, who in the present case are all officials.

5. Heard learned counsel for the parties and perused the relevant material available on record.

6. *Prima facie*, it appears that the petitioner is a habitual offender, who is involved in number of cases registered under the NDPS Act. More so, the petitioner has been convicted in two cases under the NDPS Act.

7. At this stage, learned State counsel undertakes that all the prosecution witnesses will appear before the trial Court on each and every date of hearing.



8. In the facts circumstances as enumerated hereinabove and keeping in view the criminal antecedents of the petitioner, this Court does not deem it fit to extend the concession of regular bail to the petitioner.
9. Accordingly, the instant petition is hereby dismissed.
10. However, the trial Court is directed to make earnest efforts to conclude the trial in the present case expeditiously in accordance with law, preferably within a period of 45 days.
11. It is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

JULY 23, 2024
*Anjal**

(MANJARI NEHRU KAUL)
JUDGE

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