

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

(203)

CRM-M-22758-2020 (O&M)
Date of Decision: October 26, 2020

Harjinder Singh @ Hindi

.. Petitioner

Versus

State of Punjab

.. Respondent

(Through video conferencing)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Hitesh Verma, Advocate, for the petitioner.

Mr. Sandeep Singh Deol, Deputy Advocate General, Punjab.

HARSIMRAN SINGH SETHI, J.(ORAL)

CRM-19767-2020

As prayed for, the application is allowed.

CRM-25204-2020

As prayed for, the application is allowed.

CRM-25206-2020

Present application has been filed to place on record Annexures P-4 to P-6.

Keeping in view the averments made in the application, the same is allowed and Annexures P -4 to P-6 are permitted to be taken on record.

CRM-M-22758-2020

Present petition has been filed under Section 439 Cr.P.C for the grant of regular bail to the petitioner in respect of FIR No.283 dated 20.05.2020, under Sections 22 and 29 of the NDPS Act, 1985 registered at Police Station City Barnala, District Barnala.

Learned counsel for the petitioner argues that the petitioner has not been named in the FIR but has been roped in on the basis of the disclosure statement of the co-accused, who were arrested on 20.05.2020 namely Ranjit Singh and Manpreet Singh. Learned counsel for the petitioner submits that the co-accused Ranjit Singh and Manpreet Singh in their disclosure statements had also named one Hardeep Singh apart from the present petitioner. Learned counsel for the petitioner further submits that the said Hardeep Singh, who was also arrested, has already been granted the benefit of regular bail by this Court on 28.09.2020 in CRM-M-29035 of 2020. Learned counsel for the petitioner further submits that the petitioner and said Hardeep Singh are similarly situated and therefore, the petitioner, on the ground of parity, be granted the benefit of regular bail.

Notice of motion.

Mr. Sandeep Singh Deol, learned Deputy Advocate General, Punjab, who has joined the proceedings through video conference, keeping in view the service of advance copy of petition, accepts notice on behalf of the respondent-State.

Learned counsel for the respondent-State submits that the recovery has been done from the petitioner after his arrest upon his disclosure statement. Learned counsel for the respondent very fairly states that the allegations alleged against the petitioner and co-accused Hardeep Singh, are similar and both the petitioner and co-accused Hardeep Singh have been roped in on the basis of the disclosure statement of the other co-accused.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

Once, co-accused Hardeep Singh, who was not named in the FIR and was nominated by the other co-accused like the petitioner, has already been extended the benefit of bail, the claim of the petitioner has to be considered in the light of the said development. This Court passed an order in CRM-M-29035-2020, granting bail to co-accused Hardeep Singh. The said order is as under:-

“The matter has been taken up through video-conferencing in the light of the pandemic COVID-19 situation and as per instructions.

The instant petition has been preferred under Section 439 Cr.P.C. seeking bail in FIR No.283 dated 20.05.2020, registered under Sections 22 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') at P.S. City Barnala.

States that the FIR in question was registered on 20.05.2020, wherein, co-accused Ranjit Singh and Manpreet Singh, were arrested. The petitioner was not arrested from the spot. He was arrested in pursuance of the disclosure statement of co-accused Ranjit Singh on 04.06.2020 and allegedly 710 intoxicating tablets of Clovidol SR, which as per the FSL report contain Tramadol Hydrochloride salt, were recovered from him. Learned counsel states that in view of the long gap between the date of FIR, the arrest of the petitioner and alleged recovery from him, the case of the prosecution has become doubtful. The petitioner is a young man of 30 years, sole bread-winner of the family and not involved in any other FIR.

Learned State counsel though admits the factum of the petitioner not being involved in any other FIR but states that the quantity of contraband recovered from the petitioner comes under the category of 'commercial quantity'.

Heard.

Considering the long gap between the arrest of the co-accused Ranjit Singh and Manpreet Singh on 20.05.2020 and the disclosure statement leading to arrest of the petitioner on 04.06.2020, coupled with the fact that the petitioner, who is stated to be the sole-bread winner of the family, is not involved in any other FIR, this Court is inclined to grant the relief sought in the instant petition.

In view of the above, without adverting to the merits of the instant case, this petition is allowed. The petitioner be admitted to bail during the pendency of the trial, on furnishing bail bonds with two local sureties, to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate, concerned.

However, anything noticed hereinabove shall not be construed as an expression of opinion on the merits of the case.”

Learned counsel for the respondent-State has not been able to point out the difference between the petitioner and the said co-accused Hardeep Singh in respect of the allegation alleged against them.

Once, a similarly situated co-accused Hardeep Singh has already been granted the bail, the same could not be denied to the petitioner unless and until any differentiating fact is pointed out to this Court. In the present case, no differentiating fact has been pointed out to this Court between the petitioner and co-accused Hardeep Singh. Hence, the petitioner has been able to make out a case for the grant of bail on the ground of parity with co-accused Hardeep Singh.

In view of the above and without commenting upon the merits of the case, it is directed that the petitioner be released on regular bail, subject to the satisfaction of the trial Court/Duty Magistrate concerned.

Learned counsel for the petitioner undertakes that petitioner will not influence trial in any manner including influencing the witnesses and in case of default of the above undertaking, State will be at liberty to approach this Court for passing appropriate orders.

However, it is made clear that anything observed herein shall not be construed to be an expression of any opinion on the merits of the case.

October 26, 2020
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

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