

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(212)

CRM No. M-29392-2020

Date of Decision : 30.09.2020

HARDEEP SINGH

....Petitioner

Versus

STATE OF PUNJAB

.....Respondent

(through video conferencing)

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. B.K. Mehta, Advocate for the petitioner.

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

Harsimran Singh Sethi, J. (Oral)

The present petition has been filed under Section 439 Cr.P.C. for the grant of regular bail to the petitioner in FIR No. 075 dated 23.11.2018, Under Sections 22/29 of the NDPS Act, 1985, registered at Police Station Behram, District SBS Nagar.

Learned counsel for the petitioner argues that petitioner is innocent and no recovery of the banned substance has been done from him though, the allegations have been made in the FIR with respect to the possession and recovery of the banned substance against the petitioner and co-accused, namely, Gurjeet Singh. Learned counsel for the petitioner submits that the co-accused, Gurjeet Singh has already been granted the benefit of regular bail by this Court while deciding CRM No. M-30688 of 2019, on 08.09.2020 (Annexure P-4) and, therefore, on the ground of parity,

petitioner be also granted the benefit of regular bail.

Learned State counsel submits that the bail, which has been granted to co-accused, Gurjeet Singh, is on the ground that the said co-accused Gurjeet Singh was a passenger in the auto rickshaw, which was being driven by the present petitioner and no recovery was done from the said co-accused Gurjeet Singh, whereas in the present case, the recovery of the banned substance has been done when found under the driver seat from the auto rickshaw, which was being driven by the petitioner and the parity being claimed by the petitioner is fallacious.

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

Keeping in view the FIR, the recovery of 20 ampoules of Buprenorphine was recovered. The same was recovered from the auto rickshaw being driven by the petitioner while kept under the driver seat. The quantity of the banned substance is commercial in nature.

As far as the prayer of the petitioner that the similarly situated co-accused has been granted the benefit of regular bail is concerned, the said argument cannot be accepted on the ground that the bail to Gurjeet Singh has been granted by this Court as he was a passenger in the auto rickshaw which was being driven by the petitioner and the recovery of the banned substance was done when found under the driver seat and Gurjeet Singh was granted bail on the ground that no recovery was done from him.

In the facts and circumstances of the present case, the petitioner cannot claim parity as the petitioner was the driver of the auto rickshaw from where recovery was done and in fact, the recovery was done under the driver seat, where the petitioner was sitting. The parity being claimed by

the petitioner with Gurjeet Singh is not correct and cannot be allowed.

At this stage, learned counsel for the petitioner submits that co-accused Gurjeet Singh and the petitioner were sitting on the driver seat and, therefore, Gurjeet Singh cannot be treated as a passenger in any manner.

This assertion is a matter of fact, which is yet to be proved. The Hon'ble Court while considering the bail application of Gurjeet Singh, has noticed the facts that Gurjeet Singh was a passenger in an auto rickshaw, which was being driven by the petitioner and is being taken into consideration in this petition as well. Therefore, the parity being claim by the petitioner that Gurjeet Singh was also sitting on the driver seat, which is a matter of act, cannot be accepted at this stage to grant the benefit of regular bail to the petitioner.

Dismissed.

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.

September 30, 2020
kanchan/naresh.k

(HARSIMRAN SINGH SETHI)
JUDGE

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