

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-7639 of 2021
Date of decision: 24.02.2021

Rajiv @ Bona

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: *HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI*

Present: Mr. Abhinav Aggarwal, Advocate for
Mr. Keshav Pratap Singh, Advocate for the petitioner.

Mr. Sharad Aggarwal, AAG, Haryana.

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 respect of FIR No.37 dated 25.01.2020 under Sections 21 (C)/27-A/61/85 of the NDPS Act, 1985 registered at Police Station City Tohana, District Fatehabad.

Learned counsel appearing for the petitioner argues that the petitioner was not named in the FIR and he has only been roped in the FIR on the basis of the disclosure statement of the co-accused namely, Deepak @ Sanjay from whom the contraband was seized.

Learned counsel for the petitioner further argues that no recovery of any contraband has been effected from the petitioner and especially, in view of the fact that the main accuse namely Deepak @ Sanjay from whom the recovery of contraband was effected, has already

been granted the benefit of regular bail by the Special Judge under NDPS

Act, Fatehabad vide order dated 14.02.2020, the petitioner is entitled for the concession of regular bail.

Notice of motion.

Mr. Sharad Aggarwal, AAG, Haryana accepts notice on behalf of the respondent-State.

Learned State counsel submits that the petitioner is also involved in three other cases relating to the NDPS being FIR No.79 dated 17.02.2017; FIR No.273 dated 12.08.2017 and FIR No.169 dated 21.04.2020 registered at Police Station Tohana District Fatehabad.

Learned counsel for the petitioner submits that in all other cases, which have been registered against the petitioner, the petitioner is already on bail and, therefore, the pendency of those cases will not create an impediment in the grant of regular bail in the present FIR keeping in view the facts and circumstances of the present case.

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

It is a matter of fact that in the present case, the recovery of the contraband was done from the co-accused namely, Deepak @ Sanjay and the said co-accused has already been granted the benefit of regular bail by the Special Judge under NDPS Act, Fatehabad vide order dated 14.02.2020. Further, it is also an admitted case that no recovery of contraband was effected from the petitioner in respect of the allegations alleged in the present FIR and the petitioner was roped in on the basis of the statement of the co-accused, which statement is yet to be proved in the Court of law.

Though, there are other cases pending against the petitioner but, the petitioner is already on bail in those cases and, therefore, the same will not

create an impediment in the grant of regular bail to the petitioner in the present case, especially, for the reasons that no recovery has been effected from the petitioner in the present case and he was only roped in on the basis of the statement of the co-accused namely, Deepak @ Sanjay, who has already been granted the benefit of regular bail by the Court below. Keeping in view the parity, when the main accused has already been granted the benefit of regular bail, no ground is made out to deny the same benefit to the petitioner. Moreover, the trial is likely to take some time before it concludes and keeping the petitioner behind the bars will serve no purpose.

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

Learned counsel for the petitioner undertakes that petitioner will not obstruct the trial in any manner or influence the witnesses, whose statement is yet to be recorded and in case of default of the above undertaking, the 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.

February 24, 2021
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(HARSIMRAN SINGH SETHI)
JUDGE

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