

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

(202)

CRM-M-19193 of 2021  
Date of decision: 28.06.2021

Pankaj Batra

...Petitioner

Versus

State of Punjab

...Respondent

(Through video conferencing)

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

**Present:** Mr. P.K.S. Phoolka, Advocate for the petitioner.

Mr. Amit Mehta, Sr. DAG, Punjab.

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**Harsimran Singh Sethi, J. (Oral)**

Custody certificate filed by the learned State counsel is taken on record.

This is a second petition filed under Section 439 Cr.P.C. for the grant of regular bail to the petitioner in respect of FIR No.0284 dated 10.12.2019 registered under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 ( in short, 'the NDPS Act') at Police Station Canal Colony, Bathinda.

Learned counsel for the petitioner argues that the co-accused of the petitioner namely, Chinki from whom 840 tablets of Clovidol-100 SR were recovered, has already been granted the benefit of regular bail by the Co-ordinate Bench of this Court on 18.03.2021 while deciding CRM-M-38745 of 2020 and, therefore, on the ground of parity the petitioner be also granted the benefit of regular bail.

Learned State counsel submits that the parity, which is being

claimed by the petitioner is without any basis for the reasons that the petitioner is a habitual offender, who has already been convicted under the NDPS Act and there was another FIR registered against him in the year 2017 whereas, no other case was pending against the co-accused Chinki, who has been granted the benefit of regular bail by the Co-ordinate Bench of this Court on 18.03.2021.

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

Parity can be claimed in case the allegations against both the co-accused in the FIR are similar in nature and there is no differentiating fact between the two co-accused. In the present case, the claim of the parity by the petitioner is only by placing reliance upon the order passed by the Co-ordinate Bench of this Court granting the benefit of regular bail to the co-accused Chinki. Said fact is not enough to grant the benefit of regular bail to the petitioner as there are differentiating facts between the petitioner and co-accused Chinki. Against co-accused Chinki there were no other cases pending, whereas, the petitioner has already been convicted in the year 2015 for the violation of NDPS Act and was awarded 10 years imprisonment and the petitioner committed the present alleged offence while being on bail in the said case after suspension of sentence.

Not only this, there was another FIR registered against the petitioner under Sections 323, 341 and 379-B IPC in the year 2017 itself. This shows that the petitioner is a habitual offender and has rather misused the grant of concession of bail after being convicted for violation of NDPS Act in the year 2015 therefore, the facts and circumstances of the petitioner and the co-accused Chinki are not the same and these differentiating facts

disentitle the petitioner to claim parity for the grant of concession of bail. Thus, the prayer of the petitioner for the grant of regular bail on the ground of parity is totally misplaced and cannot be accepted and is accordingly rejected.

Learned counsel for the petitioner further submits that as the petitioner is behind the bars since December 2019, in view of the custody already undergone, the petitioner is entitled for the grant of regular bail.

Keeping in view the facts and circumstances of the present case, especially, which have been recorded in the preceding paragraphs, the petitioner is a habitual offender. Not only this, the accusation against the petitioner is for violation of NDPS Act and menace of drugs requires stern action. Merely, because of the fact that the petitioner is in custody since December, 2019 for such heinous offences, the same cannot be a sole ground for the grant of benefit of bail especially by ignoring the other facts and circumstances when the petitioner is a habitual offender and is likely to resume his illegal activities, if granted bail.

No ground is made out to allow the present petition for the grant 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.

**June 28, 2021**  
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**(HARSIMRAN SINGH SETHI)**  
**JUDGE**

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