

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(209)

CRM-M-30979-2021

Date of Decision : August 12, 2021

Gurwinder Singh @ Gindi

.. Petitioner

Versus

State of Punjab

.. Respondent

(Through Video Conferencing)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. K.B.S. Mann, Advocate, for the petitioner.

Mr. Sandeep Kumar, Deputy Advocate General, Punjab.

HARSIMRAN SINGH SETHI J. (ORAL)

This is a third petition under Section 439 Cr.P.C for the grant of regular bail to the petitioner in respect of FIR No.254 dated 07.11.2019 registered under Sections 21/25 of the NDPS Act, 1985 at Police Station Civil Lines, Bathinda, District Bathinda.

Learned counsel for the petitioner argues that the co-accused of the petitioner have already been granted the benefit of regular bail and therefore, the petitioner be also granted the benefit of regular bail on the ground of parity.

The orders passed by the Coordinate Bench of this Court in the case of other co-accused have been attached as Annexures P-1 to P-3 with this petition to sub rest the claim of parity.

Notice of motion.

Mr. Sandeep Kumar, 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.

Custody certificate of the petitioner has been filed by the learned State counsel and the same is taken on record.

Learned counsel for the respondent-State submits that the parity, which is being claimed by the petitioner is misplaced for the reason that there were no other cases pending against the other co-accused, which fact has been taken into account by the Coordinate Bench while granting regular bail to them whereas, the petitioner is involved in another cases under the NDPS Act as well as one under the Excise Act.

Learned counsel for the petitioner concedes the said fact that the petitioner is involved in other cases relating to the NDPS Act as well as the Excise Act.

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

It is not disputed that a commercial quantity of heroin has been recovered from the conscious possession of the petitioner.

That being so, the rigors of Section 37 of the NDPS Act will come into being.

From the facts narrated hereinbefore, it is clear that there are other cases pending against the petitioner under the NDPS Act as well as under the Excise Act, which prima facie show that the petitioner is a habitual offender.

Keeping in view the said fact that the petitioner is unable to clear the hurdles of Section 37 of the NDPS Act.

As far as the parity being claimed by the petitioner qua the other co-accused, the same is misplaced as the other co-accused have been granted the benefit of regular bail on the ground that there are no other cases pending against them. The parity can only be claimed in case, two co-accused are similarly situated. In the present case as the petitioner is already accused of violating the NDPS Act and concededly two FIRs have been registered against him under the NDPS Act as well the Excise Act, he cannot claim parity with the co-accused. Even otherwise, the petitioner had filed another bail petition claiming parity, which was withdrawn by him after addressing arguments on 22.01.2021. There is no change of circumstances after 22.01.2021, which needs consideration by this Court again in this petition.

No ground is made out to grant the benefit of regular bail to the petitioner.

Dismissed.

It is made clear that nothing observed herein shall be construed to be an expression of any opinion on the merits of the case.

August 12, 2021
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

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