

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

(217)

CRM-M-45479-2021

Date of Decision : November 09, 2021

Joginder Singh

.. Petitioner

Versus

State of Haryana

.. Respondent

(Through Video Conferencing)

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

Present: Mr. Ajay Arora, Advocate, for the petitioner.

Mr. Karan Garg, Assistant Advocate General, Haryana.  
(keeping in view the advance copy given).

**HARSIMRAN SINGH SETHI J. (ORAL)**

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.398 dated 30.09.2019 registered under Section 22-C of the NDPS Act, 1985 at Police Station Rania.

Learned counsel for the petitioner submits that in fact, the petitioner has wrongly been involved in the present case and has nothing to do with the allegations, which have been recorded in the FIR. Learned counsel for the petitioner further submits that the notice regarding under Section 50 as required under the NDPS Act was not extended to the petitioner, which also makes a case for the grant of bail. Learned counsel for the petitioner further submits that even otherwise, the petitioner, who is

behind the bars since 30.09.2019, may kindly be extended the benefit of regular bail on the basis of the custody already undergone.

Notice of motion.

Mr. Karan Garg, learned Assistant Advocate General, Haryana, 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 in the present case, the recovery, which has been done from the petitioner is commercial in nature as 1250 intoxicant tablets were recovered, which quantity is commercial in nature and therefore, keeping in view the rigors imposed by Section 37 of the NDPS Act, the petitioner is not entitled for the grant of regular bail.

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

No doubt, the petitioner is behind the bars since 30.09.2019 but the prayer of the petitioner for the grant of bail has to be considered in accordance to the provisions of law. The recovery of the contraband from the petitioner is commercial in nature and the rigors of Section 37 of the NDPS Act come into being while considering the prayer of the petitioner for the grant of regular bail. Nothing has been presented before this Court to substantiate that the allegations alleged against the petitioner are false. That being so, merely on the basis of the custody already undergone, the petitioner cannot be granted the benefit of regular bail.

With regard to the compliance of Section 50 of the NDPS Act, the recovery from the petitioner has been done from the bag which was

carried by the petitioner and not from the person of the petitioner.

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.

**November 09, 2021**  
*harsha*

**(HARSIMRAN SINGH SETHI)**  
**JUDGE**

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