

CRM-M-49666-2021

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.211

CRM-M-49666-2021

Date of Decision: 02.12.2021

RAJIV @ BONA

... Petitioner

VERSUS

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Rakesh Nagpal, Advocate,
for the petitioner.

Mr. Karan Garg, AAG, Haryana.

Harsimran Singh Sethi, J.(Oral)

This is the third petition filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in FIR No.169 dated 21.04.2020 under Sections 21(c)/61/85 of NDPS Act, 1985, Sections 25, 54 and 59 of Arms Act, 1959 and Sections 188 and 269 of IPC, registered at Police Station City Tohana, District Fatehabad.

Learned counsel for the petitioner argues that in the present case, the petitioner has only been roped in on the basis of disclosure statement of co-accused namely, Saurabh @ Channa. He further submits that the only allegation even in the disclosure statement is that the petitioner had pooled money to buy narcotics, which were ultimately recovered from the co-accused. He further submits that in the present case, similar allegations of pooling the money for purchasing the contraband were against co-accused Sarabjeet, who has already

been granted bail by co-ordinate Bench of this Court vide order dated 09.11.2020 passed in CRM-M-34539 of 2020. He further submits that even the co-accused Saurabh @ Channa, who nominated the petitioner in his disclosure statement has been extended the default bail by this Court vide order dated 17.11.2020 passed in CRR No.1291 of 2021 and that being so, on the ground of parity and that the co-accused, from whom the recovery was made, has already been enlarged on bail, the petitioner be also extended the same benefit.

The learned State counsel on the other hand submits that though, the allegations against the petitioner and co-accused Sarabjeet, who has been extended the benefit of bail by the co-ordinate Bench are same, but the petitioner is involved in other cases as well which will disentitle the petitioner the grant of benefit as extended by the co-ordinate Bench of this Court to the accused Sarabjeet. The learned State counsel though concedes that Saurabh @ Channa, who nominated the petitioner in his disclosure statement has already been extended the benefit of default bail.

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

In the present case, nothing has been recovered from the petitioner and the petitioner has been roped in on the basis of the disclosure statement of co-accused- Saurabh @ Channa and the co-accused Sarabjeet who is similarly situated as the petitioner as far as the allegations alleged in the present petition, has already been extended the benefit of regular bail and even the co-accused, who has named the petitioner in the disclosure statement has already been granted default bail. That being so, the petitioner has made out a case for the

grant of bail.

Keeping in view the facts and circumstances noticed hereinbefore, no useful purpose will be served in keeping the petitioner behind the bars, especially when the learned counsel has assured this Court that in case the petitioner is extended the benefit of regular bail, he will not influence the trial or the witnesses in any manner. In case of default of the above undertaking, State will be at liberty to approach this Court for passing appropriate orders.

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

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.

The petition stands allowed.

(HARSIMRAN SINGH SETHI)
JUDGE

02.12.2021

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Whether speaking/reasoned : Yes

Whether reportable : No