

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(227)

CRM No. M-2535-2022

Date of Decision : 28.01.2022

Vikas @ Sunny

...Petitioner

Versus

State of Haryana

...Respondent

(Through Video Conferencing)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Parveen Sharma, 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. 41 dated 22.01.2021 registered under Sections 21 and 25 of the NDPS Act, 1985 at Police Station Kundli, District Sonipat.

Learned counsel for the petitioner argues that co-accused namely Sunil, against whom the similar allegations were alleged, was already granted bail by the Co-ordinate Bench of this Court while passing order in CRM-M-28067-2021 after holding that Section 50(1) of the NDPS Act was not complied with and on the basis of the said order, another co-accused namely Mukddar has also been extended the concession of regular bail while passing order in CRM-M-49055-2021 and therefore, on the

ground of parity, the petitioner be also extended the said concession of bail.

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, on the instructions from ASI Dinesh, concedes the factum that the petitioner is similarly situated as co-accused Sunil and Mukddar as far as serving of notice under Section 50 of the NDPS Act is concerned though recovery from all the co-accused is different in nature. Learned counsel for the respondent-State concedes the factum that the concession of regular bail has been granted to the co-accused only on the basis of non-compliance of Section 50 of the NDPS Act and on the said account, petitioner is similarly situated as the other co-accused.

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

A Coordinate Bench of this Court while passing order in CRM-M-28067-2021 titled as Sunil versus State of Haryana on 02.11.2021 had passed the following order :-

“11. The petitioner is in custody since 21.01.2021, there has been non compliance with Section 50 (1) NDPS Act, investigation is complete, besides Challan has been presented. Accordingly, taking into account the position as noted above, the petition for regular bail is allowed and the petitioner - Sunil is ordered to be released on regular bail during the pendency of the trial on his furnishing bail bond and surety

bond to the satisfaction of the learned trial Court / Chief Judicial Magistrate / Duty Magistrate concerned, provided he is not required in any other case. The petitioner shall also comply with the conditions contained in Section 437(3) Cr.P.C. However, nothing stated here-in-above shall be construed as an expression of opinion on the merits of the case.”

On the basis of the said order, co-accused Mukddar was also granted the concession of regular bail.

As concededly the petitioner is similarly situated as far as serving of notice under Section 50 of the NDPS Act is concerned with other co-accused, the petitioner has made out a case for the grant of regular bail keeping in view the said aspect.

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.

Learned counsel for the petitioner undertakes that petitioner will not influence the trial in any manner and will maintain good conduct, if he is granted bail. In case of default of the 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.

January 28, 2022
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

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