

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH
CRM-M-10314 of 2022 (O&M)**

DECIDED ON: 16th March, 2022

Ravi Kumar alias Garry

.....PETITIONER

VERSUS

State of Punjab

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN.

Present: Mr. Amit Dhawan, Advocate for petitioner.
Mr. Sandeep Kumar, DAG Punjab.

AVNEESH JHINGAN, J (ORAL)

This petition under Section 439 Cr.P.C. is filed seeking regular bail in case of FIR No.37 dated 24.3.2020, under Sections 21 and 25 NDPS Act, registered at Police Station Sidhwan Bet, District Ludhiana.

Learned counsel for the petitioner relies upon an order dated 24.2.2022 in CRM-M-49472 of 2021 whereby co-accused (Jaskaran Singh) was granted bail. Learned counsel for the petitioner claims parity with co-accused who has been granted bail by this Court.

The order dated 24.2.2022 is quoted below:

"The petitioner is seeking regular bail in FIR No.37, dated 24.03.2020, under Sections 21 and 25 of the NDPS Act, registered at Police Station Sidhwan Bet, District Ludhiana.

Learned counsel for the petitioner argues that the only allegation alleged against the petitioner in the present FIR is that he was travelling in the car along with other accused, though recovery of the contraband has been effected from the personal possession of co-accused namely Sukhdev Singh @ Debi. Learned counsel further submits that the recovery of 500 grams of heroin is made from the inner pocket of the pants worn by the said co-accused. Learned counsel also submits that in fact there is no recovery which has been effected from the petitioner in the present case and the petitioner did not have any knowledge of the contraband in the possession of the co-accused, hence the petitioner may kindly be extended the concession of regular bail.

Learned State counsel concedes the factum that recovery of the contraband, i.e. 500 grams of heroin, was made from the inner pocket of the pants, which was being worn by co-accused Sukhdev Singh @ Debi at the time occurrence of incident, and as the petitioner was also sitting in the car along with the said co-accused, it can be safely presumed that the petitioner also knew about the said possession of contraband by co-accused Sukhdev Singh @ Debi.

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

Once it is a conceded position that no recovery of any contraband was made from the petitioner and the same was done from the personal possession of the co-accused, therefore, the question of fact whether petitioner was in conscious possession of the contraband is a debatable issue and as far as the allegation that petitioner knew about possession of the said contraband by the co-accused or not, same will be proved during the trial on the basis of evidence which has come on record, no useful purpose will be achieved in keeping the petitioner behind bars for an indefinite period during the conduct of the trial, especially when learned counsel for the petitioner has undertaken before this Court that the petitioner will maintain good conduct and will not influence the trial or any witnesses in any manner, in case he is extended the concession of regular bail.

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."

Learned State counsel on instructions from ASI Chinder Pal Singh opposes the prayer for bail. With regard to parity of petitioner with co-accused, learned State counsel submits that the petitioner is involved in five more case, one under NDPS Act and four under IPC.

Learned counsel for petitioner submits that in the case under NDPS Act, the petitioner is already on bail.

Without commenting upon the merits of the case, considering that co-accused was granted bail by this Court, no recovery was made from conscious possession of the petitioner, rather *Heroin* was recovered from the inner pockets of the pant worn by the co-accused, bail is granted to the petitioner on furnishing surety bonds to the satisfaction of the Chief Judicial Magistrate/ Duty Magistrate concerned.

The petition is allowed.

It is clarified that the observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

(AVNEESH JHINGAN)
JUDGE

16th March, 2022

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<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>