

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

208

CRM-M-27610-2022
Date of Decision :05.09.2022

Pardeep @ Noliya

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Ms. Shweta Sanghi, Advocate for the petitioner.

Mr. Sandeep Singh Mann, Additional Advocate General,
Haryana.

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Harsimran Singh Sethi, J. (Oral)

The 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.298 dated 04.07.2021 registered under Sections 20 (b) (ii), 29, 27-A, 20 and 20 (c) of the Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station City Mahendergarh, District Mahendergarh.

Learned counsel for the petitioner argues that in the present case, no recovery has been effected from the petitioner or on the disclosure of the petitioner but the same has been done from a house, which is not owned by the petitioner and the petitioner has never been a tenant in the said house hence, the petitioner, who is already behind the bars since 04.07.2021 may kindly be granted concession of regular bail.

Learned State counsel submits that keeping in view the

affidavit filed by the Deputy Superintendent of Police, Haryana State Narcotics Control Bureau, Gurugram, the recovery of the contraband was done from the house owned by Meera Devi w/o Vinod, who had rented the same to one Dheeraj Soni and Subhash on the basis of the secret information. Learned State counsel further submits that the said Dheeraj Soni was living in the house from where the recovery of contraband was done and the petitioner also used to visit the said house and as per the secret information, narcotics were stored in the house in question and after keeping a surveillance, the petitioner was overpowered outside the house in question and thereafter, keeping in view the secret information already available with the authorities, contraband was recovered from the said house. Hence, as the petitioner was frequently visiting the said house, he cannot escape his liability so as to contend that recovery was not made from him as the contraband was recovered in his presence.

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

In the present case, it is a conceded position that drugs were recovered from a house, which was never in the possession of the petitioner but the same was rented out to one Dheeraj Soni and Subhash. It is also conceded position that the petitioner was never arrested from the house in question but arrested outside the house. In the affidavit filed by the respondents, it has been stated that recovery of the contraband was done from the house on the basis of secret information already available with the authorities.

Further, co-accused namely, Dheeraj Soni, who was rented out the house in question from where recovery of the contraband has been

effected, has already been granted concession of regular bail by this Court while passing order in CRM-M-4239-2022 on 09.02.2022. In the present case, the allegations whether the petitioner had the possession of contraband, which was recovered from the house in his presence, is a subject matter of evidence, which will come on record during the course of trial. This Court is not opining on the merits of the case but as the drugs were recovered from the house on the basis of secret information already available with the Investigating Agency and not from the person of the petitioner coupled with the fact that the petitioner is behind the bars from last more than one year and the co-accused namely, Dheeraj Soni, who was a tenant in the house from where the contraband was recovered, has already been granted the concession of regular bail by this Court while passing order in CRM-M-4239-2022 on 09.02.2022 alongwith the fact that the trial is likely to take some time before it is concluded as out of the total 19 witnesses no one has been examined so far, petitioner has made out a case for the grant of regular bail as Section 37 of the NDPS Act will not be applicable in the facts and circumstances of the present case.

Learned counsel for the petitioner has undertaken before this Court that the petitioner will not obstruct the trial or influence the witnesses, whose statements are yet to be recorded in any manner and in case of default of the above undertaking, the State will be at liberty to approach this Court for passing appropriate orders.

Without commenting upon the merits of the case, it is directed that the petitioner be released on regular bail, subject to the satisfaction of 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.

September 05, 2022
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(HARSIMRAN SINGH SETHI)
JUDGE

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