

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

Sr. No.208

CRM-M-34134 of 2022

Date of Decision: 09.08.2022

Mohd. Rasid @ Mohd. Rashid

.... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Sunny K.Singla, Advocate for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

HARSIMRAN SINGH SETHI, J. (ORAL)

In the present petition, prayer of the petitioner is for the grant of regular bail in case of FIR No.88 dated 06.08.2021, registered under Sections 22, 29, 61 and 85 of NDPS Act at P.S.Sadar Ahmedgarh, District Sangrur.

Learned counsel for the petitioner submits that the petitioner has wrongly been involved in the present case and is behind bars since 06.08.2021 and the trial will take time before it concludes, hence, the petitioner may kindly be extended the concession of regular bail keeping in view the fact that the place of arrest of the petitioner is disputed.

Learned counsel for the petitioner further argues that in the present case, nothing has come on record so far to show that the petitioner had thrown the bag containing the contraband on the ground, which was recovered by the police so as to contend that petitioner was having the conscious possession of the contraband.

Learned State counsel submits that in the present case, there was a secret information qua the handling of the drugs by the petitioner, which fact was proved when the petitioner tried to escape after noticing the

police party, by throwing the contraband on the ground. Learned State counsel further submits that as the recovery of the contraband which has been done from the petitioner is commercial in nature, keeping in view the rigors of Section 37 of NDPS Act, the prayer of the petitioner may kindly be declined.

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

No doubt the petitioner has been agitating that the place of arrest of the petitioner is other than the one described in the FIR but no reliable proof of the same has been placed before this Court to prima facie substantiate the said allegation. Moreover, the said allegation is yet to be proved during the course of trial on the basis of evidence which will come on record as to whether the petitioner was arrested from a place as mentioned in the FIR or from some other place, as being contended by the petitioner.

As far as the possession of the contraband is concerned, the petitioner claims that he was pillion rider of the motorcycle and therefore, as nothing has been mentioned as to who had thrown the bag containing the contraband on the ground on noticing the police party, the benefit should be given to the petitioner. The said argument can not be accepted for the reason that this is not a chance recovery but a recovery on the basis of secret information wherein the petitioner was duly named. The petitioner was pillion rider and nothing has come on record so far that the petitioner did not know about the contraband which was thrown on the ground before he was apprehended along with co-accused by the police.

Keeping in view the said fact, the contention of learned counsel for the petitioner that the recovery was not from the possession of the petitioner, can not be accepted.

Further, as the recovery of the contraband from the petitioner is commercial in nature, hence, the rigors of Section 37 of NDPS Act will come into being. Nothing has been brought into the notice of this Court to prima facie establish that the allegations levelled against the petitioner are false or motivated in any manner and further, this Court is not in a position to return a finding that in case the petitioner is granted the concession of regular bail, he will not indulge in the same activities again.

Keeping in view the above, the present petition is dismissed.

(HARSIMRAN SINGH SETHI)
JUDGE

09.08.2022
Maninder

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