

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

215

**CRM-M-49055-2021
Date of decision : 12.01.2022**

MUKDDAR

..... Petitioner

VERSUS

STATE OF HARYANA

..... Respondent

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present :- Mr. Parveen Sharma, Advocate
for the petitioner.

Mr. Karan Garg, AAG, Haryana.

(Through video conferencing)

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.41 dated 22.01.2021 under Sections 21 and 25 of NDPS Act, registered at Police Station Kundli, District Sonipat.

Learned counsel for the petitioner argues that in the present case, there are total three accused including the petitioner and one of the co-accused namely, Sunil, from whom it is alleged that 523 grams of heroin has been recovered, has already been granted the concession of regular bail by a coordinate Bench of this Court while passing order in CRM-28067 of 2021 on the ground that the process as envisaged under Section 50 of the NDPS Act, was not followed.

Learned counsel for the petitioner further submits that the petitioner is similarly situated as the co-accused Sunil and therefore, on the

ground of parity, keeping in view the reason given by the coordinate Bench while extending the concession of regular bail to Sunil, the petitioner may also be extended the concession of regular bail on the ground of parity.

Learned State counsel concedes the factum that the recovery from the petitioner is 394 grams of heroin whereas, from the co-accused Sunil, it was 523 grams which was higher in quantity. Learned State counsel also concedes the factum that the said co-accused Sunil has already been extended the concession of regular bail by co-ordinate Bench on the ground that provision of Section 50 of the NDPS Act were not complied with.

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

It is the conceded position between the parties that the co-accused Sunil has already been granted the concession of regular bail by a coordinate Bench of this Court. The relevant paragraph 11 of the order extending bail to the co-accused Sunil by the co-ordinate Bench is as under:-

“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 hereinabove shall be construed as an expression of opinion on the merits of the case.”

Once, the co-accused has already been granted the concession

of regular bail, the same concession cannot be denied to the other co-accused unless and until, any differentiating facts are brought to the notice of this Court. In the present case, the conceded position is that petitioner and co-accused Sunil are similarly situated in all respects and the ground which have been given by the coordinate Bench while extended the concession of regular bail to the said co-accused Sunil are also available to the petitioner. That being so, on the ground of parity, the petitioner has also made out the case for the grant of regular bail.

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.

(HARSIMRAN SINGH SETHI)
JUDGE

12.01.2022
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Whether speaking/reasoned	Yes
Whether Reportable :	No