

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

**CRM-M-13496-2023 (O&M)**

**Date of Decision: 30.05.2023**

PARGAT SINGH @ PAGGA

...Petitioner

Versus

STATE OF HARYANA

...Respondent

**CORAM: HON'BLE MR. JUSTICE HARSH BUNGER**

Present : Mr. Parminder Singh Sekhon, Advocate  
for the petitioner.

Mr. R.K. Singla, D.A.G., Haryana.

**HARSH BUNGER, J. (ORAL)**

Petitioner (Pargat Singh @ Pagga) has filed this petition under Section 439 of the Code of Criminal Procedure seeking grant of regular bail in case FIR No. 150 dated 24.06.2019 (Annexure P-1), under Section 21(b) and 27-A of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'the NDPS Act') registered at Police Station Sadar Ratia, District Fatehabad.

2. Status report by way of an affidavit of Sh.Vikram Singh, Deputy Superintendent Jail, Central Jail-2, Hisar, on behalf of respondent-State of Haryana, has been filed, which is already on record.

3. Custody certificate dated 29.05.2023 of the petitioner has been filed by learned State counsel in the Court today, which is taken on record, subject to all just exceptions.

4. Succinctly, the prosecution case is that on dated 24.06.2019, a police party headed by ASI Parveen Kumar apprehended co-accused Mangal Singh @ Manga while he was coming from the side of village Khumbar, on a motorcycle within the area of Police Station Sadar, Ratia.

After complying with procedure, the search was conducted and 14 grams *heroin* was recovered from Mangal Singh @ Manga. Accordingly, the abovesaid FIR was registered under Section 21(b) of the NDPS Act.

5. During interrogation, Mangal Singh @ Manga suffered a disclosure statement disclosing that he had purchased the recovered contraband from Pargat Singh (petitioner). Offence under Section 27-A of NDPS Act was added in the instant case FIR and petitioner was arrested on 10.03.2022. During interrogation, the petitioner is stated to have admitted his guilt and challan stands submitted.

6. The petitioner applied for regular bail before the Special Judge under NDPS Act, Fatehabad; which was dismissed on 02.02.2023. Accordingly, this second petition has been filed by the petitioner before this Court under Section 439 of the Code of Criminal Procedure, seeking regular bail. The earlier petition (*CRM-M-16846-2022*) for regular bail filed by the petitioner before this Court was dismissed as withdrawn on 20.01.2023.

7. Learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in the instant case on the basis of an alleged disclosure statement of co-accused Mangal Singh @ Manga, which is not admissible in evidence. It is further submitted that the petitioner is in custody since 10.03.2022; the investigation in this case is complete and the challan stands presented, thus the trial is likely to take time to conclude and no useful purpose would be served by keeping the petitioner behind bars for indefinite period. It is submitted that the co-accused Mangal Singh @ Manga has already been granted bail in this case. It is stated that the recovered contraband in this case falls under the category of “non-commercial quantity”, thus bar under Section 37 of NDPS

Act is not attracted. It is stated that the petitioner is ready to abide by any condition as may be imposed by this Court or by trial court, accordingly prayer for regular bail is made.

8. *Per contra*, learned State Counsel has opposed the prayer of petitioner for grant of regular bail on the ground of seriousness of the offence. Learned State Counsel has submitted that the petitioner had supplied the recovered contraband to co-accused Mangal Singh @ Manga. It is stated that petitioner is a habitual offender as there are 24 other cases against him, out of which three cases are under NDPS Act. While referring to Challan (Annexure P-2), learned State counsel has contended that in case, the petitioner is extended the benefit of regular bail then there is likelihood that he may abscond and thus delay the trial. It is also submitted that the petitioner may tamper with prosecution evidence or influence the witnesses and also indulge in similar cases. Accordingly, it is urged that the petitioner does not deserve the concession of regular bail and thus the instant petition may be dismissed.

9. I have heard learned counsel for the parties and perused the paper book as well as the custody certificate of the petitioner filed by respondent-State of Haryana.

10. In the present case, the petitioner has been nominated as an accused on the basis of disclosure statement of co-accused (Mangal Singh @ Manga) from whom 14 grams heroin was allegedly recovered. Petitioner is stated to be supplier of the recovered contraband to co-accused Mangal Singh @ Manga. The Challan (Annexure P-2) states as under:

*“...On dated 15.11.2021, the Hon'ble Court after hearing dismissed the bail application numbered CRM-M-50547-2019 of the accused Pargat Singh @ Pagga and ordered him to surrender in the Trial*

*Court within 15 days. But the accused never appeared before the Ld. Court. The further investigation of the case was conducted by ASI Jatinder Singh 33/FTB and during investigation on dated 10.03.2022 the accused Pargat Singh @ Pagga was arrested again in the said case...”*

*“...The accused Pargat Singh @ Pagga has been convicted in FIR No. 09 dated 24.01.2016 u/s 15/61/85 NDPS Act PS Jhanir Mansa by the Ld. Court Daljit Singh Relhan, Judge, Special Court Mansa vide order dated 08.04.2019 and he was sentenced to undergo 2 years 6 months and fine of Rs. 10,000/-...”*

As per custody certificate, the petitioner is involved in 24 other cases out of which three cases are under NDPS Act.

11. In the case of ***Jai Prakash Singh v. State of Bihar, 2012(2) RCR (Criminal) 251***, Hon’ble Apex Court had observed as under:-

*“13. There is no substantial difference between sections 438 and 439 Criminal Procedure Code so far as appreciation of the case as to whether or not a bail is to be granted, is concerned. However, neither anticipatory bail nor regular bail can be granted as a matter of rule...”*

12. In the case of ***Ranjit Singh v. State of M.P., 2013(4) RCR (Criminal) 600***, Hon’ble Apex Court had observed as under:

*“21. In Chaman Lal v. State of U.P., 2004(3) RCR (Criminal) 984 : 2004(3) Apex Criminal 450 : (2004)7 SCC 525, this Court, while dealing with an application for bail, has stated that certain factors are to be borne in mind and they are:-*

*“.... (i) the nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence, (ii) reasonable apprehension of tampering with the witness or apprehension of threat to the complainant, and*

(iii) *prima facie* satisfaction of the court in support of the charge."

22. In ***Prasanta Kumar Sarkar v. Ashis Chatterjee***, 2010(4) RCR (Criminal) 909 : 2010(6) Recent Apex Judgments (R.A.J.) 317 : (2010)14 SCC 496, this Court, while emphasising on the exercise of discretionary power generally has to be done in strict compliance with the basic principles laid down in plethora of decisions of this Court, has observed as follows :-

"9... among other circumstances, the factors which are to be borne in mind while considering an application for bail are :

(i) whether there is any *prima facie* or reasonable ground to be believed that the accused had committed the offence;

(ii) nature and gravity of the accusation;

(iii) severity of the punishment in the event of conviction;

(iv) danger of the accused absconding or fleeing, if released on bail;

(v) character, behavior, means, position and standing of the accused;

(vi) likelihood of the offence being repeated;

(vii) reasonable apprehension of the witnesses being influenced; and

(viii) danger, of course, of justice being thwarted by grant of bail."

23. The said principles have been reiterated in ***Ash Mohammad v. Shiv Raj Singh alias Lalla Babu and another***, 2013(1) RCR (Criminal) 277 : 2012(6) Recent Apex Judgments (R.A.J.) 361 : (2012) 9 SCC 446.

24. In this context, we may refer with profit to the recent pronouncement in ***Central Bureau of Investigation v. V. Vijay Sai Reddy***, 2013(3) RCR (Criminal) 252: 2013(3)

***Recent Apex Judgments (R.A.J.) 718: 2013(7) SCALE  
15 wherein the learned Judges have expressed thus:-***

*"28. While granting bail, the court has to keep in mind the nature of accusation, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character of the accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interests of the public/State and other similar considerations. It has also to be kept in mind that for the purpose of granting bail, the Legislature has used the words "reasonable grounds for believing" instead of "the evidence" which means the Court dealing with the grant of bail can only satisfy it as to whether there is a genuine case against the accused and that the prosecution will be able to produce prima facie evidence in support of the charge. It is not expected, at this stage, to have the evidence establishing the guilt of the accused beyond reasonable doubt."*

13. Keeping in view the abovesaid legal position and considering the fact that the petitioner does not have clear antecedents and also that he is stated to be the supplier of the recovered contraband in this case; coupled with the fact that he is involved in three other cases under NDPS Act, this Court is of the considered view that the petitioner may develop temptation to jump the bail. Thus, the apprehension expressed by the State counsel that if released on bail, there is every likelihood of the petitioner to tamper with the prosecution evidence and also to abscond to prolong the trial, cannot be brushed aside lightly. Apart from the above, looking at the criminal

antecedents of the petitioner, there is every possibility that he may take path of crime again, in case, he is enlarged on bail.

14. As regards the contention of the counsel for the petitioner that co-accused Mangal Singh @ Manga has already been granted bail; suffice it to say that the bail application of each of the accused has to be considered on its own merits and the facts *qua* each petitioner have to be looked into.

15. This Court is also not oblivious of the fact that large number of deaths have occurred due to drug abuse. Drug menace in our country especially in states of Punjab and Haryana has attained dangerous proportions and the youths are falling victims to this drug menace, which is required to be dealt with a firm hand.

16. In view of the above, the present petition under Section 439 Cr.P.C. seeking grant of regular bail to petitioner (Pargat Singh @ Pagga) in case FIR No. 150 dated 24.06.2019 (Annexure P-1), under Section 21(b) and 27-A of the NDPS Act, registered at Police Station Sadar Ratia, District Fatehabad; is dismissed.

17. Nothing stated here-in-above shall be construed as an expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

18. Pending application/s, if any, shall also stand disposed of.

**May 30<sup>th</sup>, 2023**  
gurpreet

**(HARSH BUNGER)**  
**JUDGE**

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No