

CRM-M-31935-2023

2023:PHHC:086229

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

(226)

CRM-M-31935-2023

Date of Decision : July 11, 2023

Gurcharan Singh @ Charna

.. Petitioner

Versus

State of Punjab

.. Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: None for the petitioner.

Mr. Jaswinder Singh Arora, DAG, Punjab.

HARSIMRAN SINGH SETHI J. (ORAL)

1. 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.02 dated 02.01.2021 registered under Sections 21, 22-C, 29, 61 and 85 of the NDPS Act (Section 29 of the NDPS Act added later on) at Police Station Sadar Moga, District Moga.

2. As per the averments made in the petition, the petitioner was not named in the FIR and no recovery of any kind of intoxicant violating NDPS Act has been effected from him and he has only been roped in the present case on the basis of the statement of one of the co-accused namely Navjot Singh. The prayer of the petitioner is that as no recovery of any contraband has been effected from him and the trial is likely to take some time before it concludes, he be granted the concession of regular bail.

3. Notice of motion.

4. Mr. Jaswinder Singh Arora, learned Deputy Advocate General, Punjab, who is present in the Court, accepts notice on behalf of the respondent-State.

5. Learned counsel for the respondent-State, on the instructions from ASI Jaswinder Singh, submits that the petitioner is a habitual offender and there are already two other FIRs registered against him where the recovery of contraband has been done from him keeping in view the allegations alleged in FIR No.183 dated 15.09.2017 registered at Police Station City Moga as well as FIR No.101 dated 24.05.2018 registered at Police Station City Moga in which cases, the petitioner is already behind the bars and has yet to be granted concession of regular bail hence, the prayer of the petitioner for the grant of regular bail in the present FIR may kindly be declined.

6. I have heard learned State counsel and have gone through the record with his able assistance.

7. Though, the petitioner is also facing two other cases under the NDPS Act and is behind the bars in those cases but the present bail petition is to be decided as per the facts and circumstances which arise keeping in view the allegations as well as fact relating to FIR No. 02 dated 02.01.2021.

8. It is conceded by the learned State counsel that in the present FIR, the petitioner has been nominated only on the basis of the disclosure statement of the co-accused namely Navjot Singh and no recovery of any contraband has been done from him in the said case. Further in the present case, out of 12 cited witnesses, none has been examined so far, which clearly shows that the trial is likely to take some time before it concludes,

hence, keeping in view the fact and circumstances of the present FIR that the petitioner was only nominated on the basis of the disclosure statement of other co-accused Navjot Singh and no recovery of any contraband has been effected from him, the petitioner is entitled for the grant of regular bail in the present case.

9. 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.

10. Petitioner is directed not to influence the trial in any manner including influencing the witnesses and in case of default of the above direction, State will be at liberty to approach this Court for passing appropriate orders.

11. However, it is made clear that no observation made in the present case will be applicable in the other two FIRs registered against the petitioner and in case, the petitioner applies for bail in those FIRs, same will be decided on the basis of the facts on those case only.

July 11, 2023
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No