

CRM-M-52007-2023

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2023:PHHC:136478

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-52007-2023

Date of Decision : October 19, 2023

Jaspal Singh

...Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Vishal Sharda, Advocate for the petitioner.

Mr. Sourbah Mohunta, DAG, Haryana.

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Harsimran Singh Sethi, J. (Oral)

1. 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.259 dated 13.09.2021 registered under Section 21(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station Kalanwali, District Sirsa.

2. Learned counsel for the petitioner submits that inadvertently all the sections under which the FIR was registered could not be mentioned in the head note of the petition and on his oral request, the heading of the petition be read as FIR No.259 dated 13.09.2021 registered under Sections 22(c), 61 and 85 of the Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station Kalanwali, District Sirsa.

3. Ordered accordingly.

4. Learned counsel for the petitioner submits that in the present case, the recovery was done from both the accused and the other co-accused namely, Karamjit Singh @ Karma has already been granted concession of regular bail by the Coordinate Bench of this Court while passing order in CRM-M-40338-2022 dated 16.10.2023 hence, the petitioner being similarly situated may also be granted the concession of regular bail.

5. Learned State counsel concedes the factum that the allegations alleged against the petitioner and the co-accused namely, Karamjit Singh @ Karma are same and the recovery of the contraband was done jointly from both the accused and the other co-accused has already been granted concession of regular bail by the Coordinate Bench of this Court while passing order in CRM-M-40338-2022 dated 16.10.2023.

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

7. Keeping in view the fact that the recovery of the contraband was done jointly from both the accused i.e. petitioner as well as Karamjit Singh @ Karma and the said co-accused has already been granted concession of regular bail by the Coordinate Bench of this Court while passing order in CRM-M-40338-2022 dated 16.10.2023, hence on the ground of parity, the petitioner has also made out a case for the grant of benefit of regular bail. Order dated 16.10.2023 passed by the Coordinate Bench of this Court while granted bail to the co-accused Karamjit Singh @ Karma is as under:-

“1.The present petition has been filed by the petitioner under Section 439 Cr.P.C for grant of bail

pending trial in case FIR No.259 dated 13.09.2021 registered under Section 22 (c) of NDPS Act, 1985 at Police Station Kalanwali, District Sirsa, Haryana.

2. It is submitted by learned counsel for the petitioner that the case against the petitioner is concocted. The petitioner is not involved in the crime as alleged against him. To connect the petitioner to the alleged crime, the police have fabricated the recovery of 6500 manufactured tablets of intoxicants from the petitioner. The petitioner is in custody since 13.09.2021. Out of 16 prosecution witnesses, only 03 have been examined so far. There is no other case against the petitioner. The counsel for the petitioner has relied upon the judgments rendered by Hon'ble the Supreme Court in the cases of Nitish Adhikary @ Bapan Versus The State of West Bengal, vide order dated 01.08.2022 passed in SLP (Criminal) No.5769-2022; Mohd. Muslim @ Hussain Versus State (NCT of Delhi), 2023 AIR (Supreme Court) 1648 and Md. Hasanuzzaman and others Versus The State of West Bengal and others, SLP (Crl.) No.3221 of 2023, vide order dated 04.05.2023, to buttress his arguments. Hence, the petitioner deserves to be released on bail pending trial.

3. On the other hand, learned State Counsel, being instructed by ASI Rajinder, has submitted that a huge quantity of contraband has been recovered from the petitioner. Not only that, one of his co-accused is in custody and has not been granted bail till date. Therefore, the petitioner does not deserve any concession of bail pending trial. However, it is not disputed by learned State counsel that the petitioner is in custody since 13.09.2021; out of 16 prosecution witnesses, only 03 have been examined so far and that there is no other case against the petitioner.

4. In view the above, but without expressing any

further opinion on the merits of the case, the present petition is allowed. The petitioner is ordered to be released on bail pending trial subject to his furnishing bail bonds/surety to the satisfaction of the Trial Court/Duty Magistrate, concerned.”

8. Keeping in view the fact that learned State counsel has not been able to point out any differentiating fact between the petitioner and the co-accused so as to deny the benefit of regular bail to the petitioner as extended to the other co-accused, on the ground of parity, present petition is allowed especially, when 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. In case of default of the above undertaking, the State will be at liberty to approach this Court for passing appropriate orders.

9. 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.

10. 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.

October 19, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

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