

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **Bail Application No.461/2008**

% **Date of Decision: 11.08.2008**

Gurpal Singh Petitioner

Through Mr.K.B. Andley, Sr. Advocate with
Mr.M.L. Yadav, Advocate

Versus

State of Delhi Respondent

Through Mr.R.N. Vats, APP for the State.

CORAM:
HON'BLE MR. JUSTICE ANIL KUMAR

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| 1. | Whether reporters of Local papers may be allowed to see the judgment? | YES |
| 2. | To be referred to the reporter or not? | NO |
| 3. | Whether the judgment should be reported in the Digest? | NO |

ANIL KUMAR, J.

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This is an application for bail under Section 439 of Code of Criminal Procedure. The brief facts are that on 10th May, 2007, on the basis of secrete information that one Paramjeet Singh, a native of District Fatehgarh Sahib, Punjab, along with Gurpal Singh, petitioner, will supply smack and opium to different persons, a raid was conducted. Petitioner, who was driving the car, came out and after looking here and there went back to the driver's seat. Thereafter the other occupant of the car, Mr.Paramjeet Singh, came out with a bag and a yellow colour tin in his hand, and he was apprehended.

From Mr. Paramjeet Singh 14.500 kilograms of opium and 750 grams of smack were recovered. Nothing had been recovered from the petitioner. The challan has already been filed and learned counsel for the petitioner contends that no specific role has been assigned to the petitioner. The learned counsel for the State also does not deny that no specific role has been assigned to the petitioner in the Challan.

The petitioner is stated to be the driver only and there are no such circumstances to reflect that he was involved with the other occupant of the car, the co-accused, from whom the commercial quantity of the Narcotic substances were recovered. It is apparent that the petitioner was not in conscious possession of the offending articles.

When an application for Bail is under the consideration of the Court and the rigors of Section 37 of the NDPS Act are attracted, it is incumbent upon this Court to examine as to whether there exist reasonable grounds for believing that the petitioner is guilty of the offense charged. This consideration has to be on the basis of the material available on the date on which the application for bail is considered. Moreover the satisfaction recorded by the Court at this stage is only a prima facie view and would not affect the consideration of the case by the trial Court. On a consideration of the circumstances and the materials there are reasonable grounds to believe that the petitioner is not guilty of the offence charged.

The petitioner is stated to be the driver of the vehicle from which the co-accused was arrested with narcotic substances. The petitioner has no criminal antecedents and this has not been controverted by the respondent.

In this view of the matter I find that the necessary requirement of section 37 has been fulfilled and therefore this is a fit case in which the petitioner is to be released on bail. Accordingly I hold that the petitioner is entitled for bail. Consequently, the petitioner be released on bail on his furnishing a personal bond in the sum of Rs.50,000/- with one surety of the like amount to the satisfaction of the trial court. The petitioner shall not try to influence any of the witnesses in any manner. The petition is disposed of.

A copy of this order be given dasti under the signatures of the Court Master of this Court.

August 11th , 2008
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ANIL KUMAR, J.