

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-26784-2015

Date of Decision: September 3, 2015

Harjinder Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr. Vivek K. Thakur, Advocate,
for the petitioner.

Mr. K.S. Pannu, DAG, Punjab,
for the respondent.

1. *Whether Reporters of local papers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not?*
3. *Whether the judgment should be reported in the Digest?*

NARESH KUMAR SANGHI, J (Oral)

Prayer in this petition, filed under Section 439, Cr.P.C., is for grant of bail to the petitioner, Harjinder Singh, son of Karnail Singh, resident of Village and Post Office, Raipur Arayian, Tehsil Nakodar, District Jalandhar, who has been booked for having committed the offence punishable under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for brevity, 'the NDPS Act'), in a case arising out of FIR No. 37, dated 1.4.2014, registered at Police Station, Division No. 7, Jalandhar.

Learned counsel contends that even if the whole case of

the prosecution is taken at its face value, then also the ingredients of Section 15 of the NDPS Act are not attracted qua the petitioner; concededly, the petitioner was not named by the secret informer to the police officer and, as such, his name has not figured in the first information report; two co-accused of the petitioner, who were allegedly arrested from the spot along with the poppy husk, have already been granted concession of bail under Section 36A of the NDPS Act/Section 167(2), Cr.P.C.; and that on account of the petition filed by the petitioner before this Court prior to his arrest, levelling allegations against the police, he has been framed in the present case.

Learned counsel for the State on instructions from ASI Surinder Singh of Police Station, Division No. 7, Jalandhar, very fairly concedes that co-accused of the petitioner, who were arrested from the spot along with the poppy husk, have already been granted concession of bail as per the provisions contained in Section 36A of the NDPS Act; the petitioner was not arrested from the spot; and that except the disclosure statements of the co-accused, disclosure of the petitioner and during interrogation what was stated by the petitioner, there is no other evidence to connect him with the poppy husk allegedly recovered in the present case.

I have heard learned counsel for the parties and with their able assistance gone through the material available on

record.

Circumstances explained by learned counsel for the State to connect the petitioner with the present case would not be *prima facie* sufficient to hold a person guilty.

Keeping in view totality of the facts and circumstances of the case, the present petition is allowed. The petitioner, Harjinder Singh, son of Karnail Singh, resident of Village and Post Office, Raipur Arayian, Tehsil Nakodar, District Jalandhar, is ordered to be released on bail during pendency of the trial of the present case subject to his furnishing bail bonds in the sum of ₹3,00,000/- (Rupees three lacs only) with two sureties in the like amount, to the satisfaction of the learned Trial Court.

Observations made here-in-above are for the sole purpose of deciding present petition for grant of bail.

(NARESH KUMAR SANGHI)
JUDGE

September 3, 2015
Pkapoor