

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

CRM No.M-29707 of 2015

Date of Decision: 10.09.2015

HARBHAJAN SINGH

. . . Petitioner

Versus

STATE OF PUNJAB

. . . Respondent

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Divjyot S. Sandhu, Advocate
for the petitioner.

Mr. Y.K. Gupta, AAG, Punjab.

JASPAL SINGH, J. (Oral)

This is a third petition under Section 439 of the Code of Criminal Procedure preferred by petitioner, seeking regular bail in case FIR No.199, dated July 09, 2014, under Section 20, 25, 61, 85 of NDPS Act, Police Station, City Kapurthala, District Kapurthala.

Learned State counsel has furnished the custody certificate, in Court today, the same is taken on record.

It is an undisputed fact that the alleged recovery of 4 Kgs of *charas* was effected from co-accused of the petitioner

namely Mangat Ram @ Manga and Tilak Raj. The petitioner was not present at the spot and had been subsequently arrayed as accused with the aid of Section 25 of the NDPS Act. Investigation in this case is complete. Report under Section 173 (2) Cr.P.C. has already been presented and the trial is in progress. Petitioner was arrested in this case on July 9, 2014. Since then, he is behind the bars and suffering incarceration.

To prove an offence falling under Section 25 of the Act, burden heavily lies on the prosecution that narcotic drug was being transported in the vehicle i.e. in car No.PB-01-9924 with the connivance or knowledge of the petitioner. Such a role of the petitioner can only be established by the prosecution from the evidence to be adduced before learned trial Court. The disposal of the challan is also not likely in near future.

Taking into consideration the aforesaid aspects of the case but without expressing any opinion on the merits, this Court is of the considered view that a case is made out for the grant of concession of bail. Accordingly, petition is allowed and petitioner is ordered to be released on bail at the satisfaction of Id. trial court/Duty Magistrate, Kapurthala.

[JASPAL SINGH]
JUDGE

10.09.2015
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