

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

CRM-M-7178-2015 (O&M)
Date of Decision: 07.10.2015

Mohinderpal

... Petitioner

VS.

State of Punjab

... Respondent

CORAM: HON'BLE MR.JUSTICE SURYA KANT
HON'BLE MR.JUSTICE P.B. BAJANTHRI

- 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?*

Present: Mr. JBS Gill, Advocate for the petitioner

Ms. Reeta Kohli, Addl. AG Punjab with
Mr. Vaibhav Sharma, DAG Punjab

SURYA KANT, J.

(1) The petitioner seeks his enlargement on regular bail in FIR No.69 dated 16.04.2013 u/s 22/25-A/27-A/29 of NDPS Act, 420, 467, 468, 471 IPC registered at Police Station Fatehgarh Sahib, District Fatehgarh Sahib.

(2) The name of the petitioner admittedly does not figure in the subject FIR.

(3) The petitioner was statedly the driver of Devraj @ Dev Behal who was arrested in this case on 05.12.2013 and from whom psychotropic substance/contraband are alleged to have been recovered through a disclosure statement made on 06.12.2013. Dev Raj @ Dev Behal is said to have used the petitioner as a 'carrier' for the transportation of illicit drugs.

(4) We have heard learned counsel for the parties and seen the record.

(5) The petitioner has never been found involved in any other NDPS case and in the instant case also no recovery of any contraband was effected from him. Though the legality of 'disclosure statement' made by his employer is yet to pass the test or judicial scrutiny but even as per that statement also, the petitioner is not accused of knowing the nature of material which he was asked to deliver by his employer. Since the petitioner has been implicated with the aid of Section 29 of the NDPS Act, the prosecution will have to establish his informed knowledge at the appropriate stage. Thus, it is sufficient that twin test of Section 37(1)(b)(ii) cannot be attracted at this stage.

(6) The petitioner has spent more than one and a half year in custody. The investigation is complete and charge-sheet has been filed. There appears to be no private witness to whom the petitioner might attempt to influence. Without expressing any views on merit, we thus allow this petition and release the petitioner on bail. He is directed to be released on furnishing bail bonds to the satisfaction of the trial court.

(Surya Kant)
Judge

(P.B. Bajanthri)
Judge

0710.2015
vishal shonkar