

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

CRM No.M-19277 of 2016 (O&M)

Date of decision: 16.08.2016

Kuldeep Singh @ Moni

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. Sherry K. Singla, Advocate for the petitioner.

Ms. Harsimrat Rai, DAG, Punjab.

Jitendra Chauhan, J. (Oral)

By filing the present petition under Section 439 of the Code of Criminal Procedure, the petitioner has sought regular bail in case FIR No.15, dated 09.02.2016, registered under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act'), at Police Station Talwandi Sabo, District Bathinda.

The learned counsel for the petitioner refers to Annexure P-1, the FIR to contend that as per FIR three persons were allegedly holding the polythene containing contraband, however, in the first part of the FIR and the submissions made before the learned Court of Special Judge, Bathinda, the stand of the prosecution is that three young men were stopped while putting their hands in a transparent polythene bag. It is contended that a conjoint reading of the first para

of the FIR and the stand taken by the prosecution before the Court of Special Judge indicate that the recovery was not effected from the exclusive and conscious possession of the petitioner. Moreover, the co-accused, Rajwinder Singh and Gurjinder Singh have already been admitted to bail by the trial Court. The petitioner is in custody since 09.02.2016.

On the other hand, the learned State counsel opposes the prayer of bail and submits that in fact the contraband was recovered from the conscious possession of the petitioner.

I have heard learned counsel for the parties and perused the record.

It is debatable as to whether the quantity of contraband is commercial or otherwise. Considering the fact that the petitioner is in custody since 09.02.2016, without adverting to the merits of the instant case, this petition is allowed. The petitioner be admitted to bail during the pendency of the trial, on his furnishing bail bonds and surety bonds, to the satisfaction of the trial Court.

Anything said herein above shall not be construed as an expression of opinion on the merits of the case.

16.08.2016

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(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No