

12IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-14838 of 2017

Date of Decision: 13 September, 2017

Talwinder Singh

...Petitioner

Versus

State of Punjab

..Respondent

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. R.S. Rai, Senior Advocate
with Mr. Anurag Arora, Advocate
for the petitioner.

Mr. H.S. Grewal, Addl. A.G. Punjab.

FATEH DEEP SINGH, J.

The allegations against the petitioner in this regular bail application under Section 439 Cr.P.C are that on 16.9.2016 on search of car No.PB-01-A-1494 make Indica which was being driven by Jatinder Kumar and in which next to the driver's seat Krishan Lal and on the back seat the petitioner and Neeraj Kapoor were sitting, a polythene envelop containing intoxicating powder was recovered from the seat next to the driver and which was found to be 500 grams heroin.

Learned counsel for the petitioner contended that the petitioner is behind the bars since long time and that the trial is not likely to be concluded in near future and the conscious possession of the petitioner is not made out and has sought to hammer home the point that co-accused Krishan Lal admitted his guilt before the trial Court and convicted vide judgment dated 02.03.2017 and, thus, the petitioner cannot be fastened with any liability.

The bail application is stoutly opposed by learned State counsel on the grounds that petitioner has been found in conscious possession of commercial quantity of heroin and, thus, is not entitled to any relief and that the trial is underway and has sought to thwart the efforts of the learned counsel for the petitioner that mere confession by co-accused does not exonerate the petitioner.

Appreciating the submissions, the co-accused has been pleaded guilty by the trial Court but in terms of law laid down in **Madan Lal vs. State of Himachal Pradesh 2003(4) RCR (Criminal) 100** since the petitioner was travelling in the same very vehicle from which the recovery has been effected and not from the person of a person, thus, the petitioner cannot take any such benefit out of the confession of his co-accused.

Keeping in view that the commercial quantity of the contraband has been recovered and that the trial is underway impels this Court to decline the bail in view of the stringent provisions of NDPS Act.

(FATEH DEEP SINGH)
JUDGE

September 13, 2017

aarti

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No