

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

CRM -M-25839 of 2017 (O&M)

Date of decision: 30.08.2017

Harjinder Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

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

Mr. A.S. Gill, Sr. DAG, Punjab
assisted by HC Sandeep Kumar.

Jitendra Chauhan, J. (Oral)

By filing the present 4th petition, under Section 439 of the Code of Criminal Procedure, the petitioner has sought regular bail in FIR No. 43 dated 24.03.2016, registered under Section 21 of NDPS Act, at Police Station Sadar Fazilka, District Fazilka.

The first bail petition was allowed and the petitioner was admitted to interim bail till the receipt of FSL report, vide order dated 28.07.2016 (Annexure P-4), the second bail petition was dismissed on merits, by way of order dated 08.12.2016 (Annexure P-6) and the third bail petition was dismissed as withdrawn, by virtue of order dated 14.03.2017.

It is contended that despite the fact that petitioner is in custody since 24.03.2016, not even a single witness has been examined. The alleged recovery of contraband was effected from the dashboard of the vehicle in question of which the petitioner was neither owner nor the

driver. He further states that the petitioner is a highly skilled person and had been running restaurant and mobile shop and has generated employment for 5/6 youths. Though the quantity in the present case falls under commercial quantity, however, there is no explanation by the State as to why not even a single PW could not be examined since the arrest of the petitioner.

On the other hand, the learned State counsel opposes the bail application, however, he admits the above factual aspect of the matter.

Heard.

As the trial has not commenced, it can be safely inferred that the State has lost interest in the matter and there is absolute uncertainty with regard to conclusion of trial. Keeping in view the above, the Court feels that the petitioner cannot be kept in further incarceration for an indefinite period, without adverting to the merits of the instant case, this petition is allowed. The petitioner be admitted to bail during the pendency of trial, on his furnishing bail bonds and surety bonds to the satisfaction of CJM/Duty Magistrate/trial Court.

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

The trial Court is directed to send a report detailing the reasons as to why not even a single witness has been examined by 13.10.2017 to the Registrar General of this Court.

30.08.2017

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(JITENDRA CHAUHAN)

JUDGE

Whether speaking/reasoned :

Yes

No

Whether Reportable :

Yes

No