

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

**Criminal Misc. No. M-33334 of 2017
Date of Decision:-21.12.2017**

Gujral Singh @ Joga

...Petitioner

Versus

State of Punjab

...Respondent

CORAM:- HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present:- Mr. Vipul Jindal, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

FATEH DEEP SINGH J.(Oral)

The allegations against the petitioner Gujral Singh @ Joga in this regular bail application under Section 439 Cr.P.C. in case FIR No.118 dated 23.6.2016, under Sections 22/29-61-85 of NDPS Act, 1985, registered at Police Station Kotwali, Kapurthala, are that on 23.6.2016 on the basis of secret information that a person was coming in a vehicle carrying intoxicant substance and as a consequence of which police party headed by ASI Arjan Singh accosted a white colour XUV 500 mark Mahindra No.PB-09-AA-0945 and on signal, driver stopped the car and one person ran away, who

was subsequent identified to be present petitioner Gujral Singh @ Joga and from the vehicle 500 grams of intoxicant powder, which was subsequently opined to be Diphenoxylate hydrochloride was got recovered.

The contentions of learned counsel for the petitioner are that the petitioner was neither apprehended at the spot nor any recovery was effected from him and put to doubt the veracity of the prosecution story as to the identity of the petitioner.

The bail application has been strongly opposed by learned State counsel on the ground that the petitioner has been found to be in conscious possession of commercial quantity of intoxicant powder and he was earlier declared proclaimed offender and if allowed bail, he would again abscond.

Appreciating the submissions no doubt that commercial quantity has been recovered from the vehicle which to the specific query of the Court, the prosecution could not connect with the accused-petitioner. State counsel on instructions from ASI Lakhwinder Singh fairly accepted the fact that there is no separate statement of the police official who is claiming to have identified the petitioner.

Thus, keeping in view this serious debatable issue over the identity of the petitioner and the fact that the petitioner is behind the bars since 25.7.2017 and the fact that culpability, if any, shall be determined at the time of trial together with the fact that the trial is not likely to accomplish in near future, the present petition is allowed. Accordingly, the petitioner is ordered to be released on regular bail to the

satisfaction of Chief Judicial Magistrate/Duty Magistrate, Kapurthala.

The petition stands disposed off accordingly.

December 21, 2017
Vijay Asija

(FATEH DEEP SINGH)
JUDGE

Whether speaking/reasoned

Yes / No

Whether Reportable

Yes / No