

CRM-M-40967-2017

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

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Date of Decision: 09.11.2017

Kaka Singh

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Ms. Manjot Kaur, Advocate,
for the petitioner.

Ms. Simranjeet Kaur, AAG, Punjab.

INDERJIT SINGH, J.

Petitioner-Kaka Singh has filed this petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in case FIR No.08 dated 16.01.2017, registered at Police Station Lehra, District Sangrur, under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for brevity, 'NDPS Act, 1985').

Notice of motion has been issued. Learned State counsel has appeared and contested the instant petition.

I have heard learned counsel for the petitioner as well as learned State counsel and gone through the record.

From the record, I find that as per the FIR, three plastic bags, each containing 34 kgs of poppy husk, were recovered from a car. It is mentioned in the FIR that unknown car driver alongwith his unknown companions has committed an offence under Section 15 of the

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NDPS Act, 1985. There is nothing in the FIR that the police officials had seen anybody while running away from the spot and they had identified him. As per the FIR, it looks that recovery has been effected from an abandoned car which was lying there on the spot after the accident. The present petitioner has been named only on the basis of statement of Ex-Sarpanch Gursev Singh, who stated that when he was going on walking, he saw the present petitioner while driving the car alongwith other persons. Recovery was effected in the midnight at about 12.05 A.M.

Learned counsel for the petitioner stated that there is no evidence connecting the present petitioner with the recovery. The present petitioner is not the owner of the vehicle. The statement of Ex-Sarpanch Gursev Singh, which was recorded under Section 161 Cr.P.C. that he was going on walking in the midnight in the month of January, also looks doubtful and false.

Keeping in view the facts and circumstances of the present case, I find that identity of the present petitioner and the fact as to whether he is connected with the recovery from the abandoned car are still to be determined by the trial court on the basis of evidence which is to be produced by the prosecution. Moreover, the petitioner is not required for any investigation or interrogation purposes as he is in judicial custody. The trial of the case will take long time. Therefore, no useful purpose will be served by keeping the petitioner in custody till the final disposal of the case.

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Without discussing the facts in minute detail; without expressing any opinion on the merits of the case and in the facts and circumstances of the present case, this criminal miscellaneous petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing personal bonds in the sum of ₹50,000/- with one surety in the like amount to the satisfaction of the trial Court/Duty Magistrate.

However, nothing stated above in any way will constitute my opinion on the merits of the case.

09.11.2017

parveen kumar

**(INDERJIT SINGH)
JUDGE**

Whether speaking/reasoned	:	Yes
Whether reportable	:	No