

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

**CRM-M No.11748 of 2018
Date of Decision: 06.04.2018**

Amar Chand

.....Petitioner

Vs

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Navkiran Singh, Advocate
for the petitioner.

Mr. Hittan Nehra, Addl. A.G., Punjab.

RAJ MOHAN SINGH, J.(Oral)

Petitioner seeks grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.119 dated 07.08.2017 registered under Sections 21, 22, 61, 85 of the NDPS Act at Police Station Division No.2, Jalandhar.

Learned counsel for the petitioner submitted that earlier bail was allowed to be withdrawn on 27.11.2017. Thereafter, statement of PW 2 HC Mohan Singh was recorded before the trial Court on 10.01.2018, wherein he has deposed in the following manner:-

“It is incorrect to suggest that the accused was apprehended by SHO on 06.08.2017 at 7.55 PM and was taken to him in a car which was standing outside the house. It is incorrect to suggest that neither

Sukhdev Singh nor I was present when accused was taken into custody. There is footage of camera near the house of the accused, where SHO was doing shown taking the accused to the car. Neither I nor ASI Sukhdev Singh was seeing in the footage of the car. CD of the camera is Mark A. It is incorrect to suggest that nothing was recovered from the accused, as per footage of the camera. It is incorrect to suggest that accused was kept at police station for several hours and a false case has been foisted upon the accused. It is incorrect to suggest that no intoxicant powder was recovered from the accused. It is incorrect to suggest that accused has been falsely implicated in this case. It is incorrect to suggest that I have deposed falsely.”

Learned counsel for the petitioner by referring to aforesaid admissions on the part of the prosecution witness further submitted that the factum of CCTV coverage has been admitted by the witness in which SHO was shown taking the accused/petitioner to the car. The said occurrence took place at about 7:55 PM on 06.08.2017 and the petitioner was shown to be arrested in the present case on 07.08.2017 at 1:10 AM. The alleged recovery is of 105 grams of intoxicant powder and one and half grams of heroin. The powder was ultimately detected to

be containing Diphenoxylate Hydrochloride.

Learned State Counsel on instructions from ASI Paramjit submitted that evidentiary value of PW 2 would be tested by the trial Court at the relevant stage. Otherwise, the police has completed all the legal formalities in the present case.

As per custody certificate, petitioner is in custody since 07.08.2017 and he has undergone 7 months and 29 days of actual sentence as on 05.04.2018.

Statement of PW 2 HC Mohan Singh in the light of being incriminatory would be tested by the trial Court.

At this stage, without meaning anything on the merits of the case, I deem it appropriate to enlarge the petitioner on regular bail subject to his furnishing adequate bail bonds and surety bonds to the satisfaction of the trial Court.

Nothing expressed hereinabove would be construed to be an expression of any opinion on merits of the case.

April 06, 2018.

Prince

**(RAJ MOHAN SINGH)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No