

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

**Criminal Misc. No. M-12570 of 2018
Date of decision: 31.08.2018**

Ashok Kumar

..Petitioner

Versus

State of Punjab

..Respondent

CORAM: HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present: Mr. K.D.S. Sandhu, Advocate
for the petitioner.

Mr. C.L. Pawar, Sr. DAG, Punjab
for the respondent -State.

Daya Chaudhary, J. (Oral)

The present petition has been filed by petitioner-Ashok Kumar under Section 439 Cr.P.C. for grant of regular bail to him in case FIR No.91 dated 05.12.2017 registered under Section 15/61/85 of the Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station Bhaini Mian Khan, District Gurdaspur.

Learned counsel for the petitioner submits that the petitioner has falsely been implicated in the case whereas he was not involved. The alleged recovery has been planted upon the petitioner just to save the owner of the truck and rope the petitioner in the present case. The petitioner is neither owner nor conductor nor driver of the truck allegedly involved in the present case. A joint offer of search was given to the accused persons by the Investigating Officer and there is violation of mandatory provisions of Section 50 of the NDPS Act. Learned counsel further submits that even the FIR was merely a formality as it was mentioned that form M-29 was filled at the spot whereas it should not have been. Learned counsel also submits that no other case of NDPS is pending against the petitioner and all the

witnesses are official witnesses. There is no possibility that the petitioner may influence the witnesses or tamper with the record. The petitioner is in custody since 05.12.2017 and trial may take some time to conclude. No purpose would be served by keeping the petitioner in custody.

Learned State counsel has not disputed the custody period as well as stage of trial by saying that out of total 12 witnesses, two have been examined. It has also not been disputed by learned State counsel that no other case of NDPS is pending against the petitioner.

Heard arguments of learned counsel for the petitioner as well as learned State counsel and have also perused the contents of the FIR and other documents available on the file.

In view of the submissions made by learned counsel for the petitioner and by considering that the petitioner is in custody since 05.12.2017; the trial may take time to conclude; no purpose would be served by keeping the petitioner in custody and all witnesses are official witnesses and there is no possibility that the petitioner may influence the witnesses or tamper with the evidence, the present petition is allowed and the petitioner (Ashok Kumar) is directed to be released on regular bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court.

However, in case, the petitioner is found to be involved in any other case of NDPS, the State is at liberty to move application for cancellation of bail.

31.08.2018
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(DAYA CHAUDHARY)
JUDGE

Whether speaking/reasoned

Yes

Whether Reportable

No