

Crl. Misc. No. M-13890 of 2018

(1)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl. Misc. No. M-13890 of 2018

DATE OF DECISION:18.09.2018

Dharam Singh @ Moni

.....Petitioner

Versus

State of Punjab

.....Respondent

BEFORE:- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present:- Mr. Raj Kumar, Advocate
for the petitioner.

Mr. C.L. Pawar, Senior DAG, Punjab.

DAYA CHAUDHARY, J.

Petitioner-Dharam Singh @ Soni has approached this Court by way of filing the present petition under Section 439 Cr.P.C. for grant of regular bail in case FIR No. 153 dated 19.7.2017 registered under sections 15/61/85 of NDPS Act (hereinafter referred to as 'the Act') at Police Station Bagha Purana, Moga.

Learned counsel for the petitioner contends that the petitioner has falsely been implicated in this case, whereas, he was not involved. The mandatory provisions of Sections 50, 52, 52-A and 55 of the Act have not been complied with. The petitioner is in custody since 19.7.2017 and no other case of NDPS Act is pending against him. All the witnesses are official witnesses and there is no possibility that the petitioner may influence the witnesses or tamper with the evidence. The FIR was

registered on the basis of secret possession, whereby, the petitioner has been shown to be in possession of 56 kgs of poppy husk, which is marginally more than the non-commercial quantity. Out of total 12 prosecution witnesses, two have been examined and trial may take long time to conclude.

Learned counsel for respondent-State has not disputed the custody period as well as stage of the trial and recovery effected from the petitioner. It has also not been disputed that no other case under NDPS Act is pending against the petitioner.

Heard the arguments advanced by learned counsel for the parties and have also gone through the contents of the FIR and other documents available on the file.

By considering the submissions made by learned counsel for the petitioner and also the facts that the quantity of contraband recovered from the petitioner is marginally more than the commercial quantity; the petitioner is in custody for the last more than one year and two months; there is no other case under the Act against the petitioner; all the 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. Petitioner-Dharam Singh @ Soni is directed to be released on regular bail subject to his furnishing bail/surety bonds to the satisfaction of trial Court.

September 18, 2018
pooja

(DAYA CHAUDHARY)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes