

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

CRM-M No.14862 of 2018

Date of Decision: 20.08.2018

Sumit alias Gori

....Petitioner

Versus

State of Punjab

....Respondent

BEFORE :- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present:- Mr. Sahil Puri, Advocate
for the petitioner.

Mr. C.L. Pawar, Sr. D.A.G., Punjab.

DAYA CHAUDHARY, J.

Petitioner-Sumit alias Gori has approached this Court by way of filing the present petition under Section 439 of the Cr.P.C for grant of regular bail in case FIR No.9 dated 22.02.2018 registered under Sections 22/27/61/85 of the NDPS Act at Police Station Kabirpur (Ahalikalan), District Kapurthala.

A further prayer has also been made for grant of *ad-interim* bail till the receipt of Chemical Examiner's Report in view of judgment of Division Bench of this Court in case **CRM-M No.14140 of 2012** titled as ***Inderjit Singh alias Laddi vs State of Punjab*** decided on **31.01.2014**.

Learned counsel for the petitioner submits that the petitioner is a young man of 22 years of age and is the sole bread earner of his family. He has falsely been implicated in the case, whereas, he was not involved in any manner. The alleged recovery made from the petitioner is on the basis

of suspicion, which is stated to be 44 capsules to be of intoxicant nature. There is a non-compliance of provisions of Section 50 of the NDPS Act as the petitioner was not searched before a Magistrate or a Gazetted officer. Learned counsel also submits that no independent witness was joined at the time of alleged recovery and nowhere, it has been mentioned that any such witness was called who refused to become as a witness. Learned counsel further submits that all witnesses are official witnesses and there is no possibility that the petitioner may influence them. The alleged recovery is non-commercial quantity and no useful purpose would be served by keeping the petitioner behind bars. The petitioner is in custody since 22.02.2018.

Learned State counsel has not disputed the custody period and the alleged recovery which is less than the commercial quantity. However, grant of bail to the petitioner has been opposed on the ground that two more cases under the NDPS Act are pending against him.

Learned counsel for the petitioner submits that in those two cases under the NDPS Act, the petitioner is on bail.

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

Admittedly, the petitioner is on bail in two more cases under the NDPS Act. As per allegations, the recovery from the petitioner is 44 intoxicant capsules. As pointed out by learned State counsel, the alleged recovery is non-commercial, by considering the custody period; the recovery and also the fact that all witnesses are the official witnesses and there is no possibility that the petitioner may influence them, the present petition is allowed and petitioner, namely, Sumit alias Gori is directed to be

released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court.

However, it is made clear that in case, the petitioner is found to be involved in any other case under the NDPS Act, the State is at liberty to move an application for cancellation of his bail.

20.08.2018	(DAYA CHAUDHARY)
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Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No