

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

Crl. Misc. No.M-17714 of 2018

Date of Decision: 06.07.2018

Paramjit Singh @ Kala

....Petitioner

Versus

State of Punjab

....Respondent

BEFORE :- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present:- Mr. P.S. Sekhon, Advocate
for the petitioner.

Mr. Amit Mehta, Sr. D.A.G., Punjab.

DAYA CHAUDHARY, J. (ORAL)

The present petition has been filed under Section 439 Cr.P.C for grant of regular bail to the petitioner in case FIR No. 09 dated 21.01.2018 registered under Sections 22/61/85 of the NDPS Act at Police Station Dhanoula District Barnala during pendency of trial.

Learned counsel for the petitioner submits that as per allegations levelled in the FIR, the alleged substance was kept in a bag, which was hold by co-accused and the petitioner was driving the motorcycle. The recovery was not effected from the conscious possession of the petitioner. There was non-compliance of provisions of Section 50 of the NDPS Act. Neither the CFL form was filled up by the Investigating Officer at the spot nor it was deposited with the MHC on the same day. The alleged recovery was effected on 21.01.2018 and was produced before the learned Magistrate on 22.01.2018. The petitioner is in custody since 21.01.2018 and no other case of NDPS Act is pending against him. Learned counsel also

submits that all witnesses are official and the petitioner undertakes not to influence any witness or tamper with the evidence. Only the challan has been presented and the charges have been framed but no witness has been examined so far.

Learned State counsel has not disputed the custody period and the stage of trial but has opposed the submissions made by learned counsel for the petitioner with regard to bail being the commercial quantity.

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.

As per case of the prosecution, the alleged tablets were recovered from the accused which were kept in a plastic bag which was hold by the pillion rider. The conscious possession is also a matter of evidence and that would be seen during trial but it cannot be said at this stage that the recovery was effected from the conscious possession of the petitioner. All witnesses are official witnesses and there is no possibility that the petitioner may influence the witnesses. The alleged recovery is marginally more than the non-commercial quantity. The trial may take long time to conclude and no useful purpose would be served by keeping the petitioner behind bars. No other case of NDPS Act is pending against the petitioner.

In view of the above, the present petition is allowed and petitioner, namely, Paramjit Singh @ Kala 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 of NDPS Act, the State is at liberty to move an application for cancellation of bail.

06.07.2018
gurpreet

(DAYA CHAUDHARY)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No