

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

CRM-M No. 18568 of 2018

Date of decision : 21.11.2018

Sukhdev Singh alias Deba

.....Petitioner

Versus

State of Punjab

...Respondent

CORAM : HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present : Ms. Satwant Mehta, Advocate for the petitioner.

Mr. Amit Mehta, Senior DAG, Punjab.

* * *

DAYA CHAUDHARY, J. (Oral)

Learned State counsel submits that the cost amount has been deposited. He has filed the receipt along with affidavit of the Investigating Officer and custody certificate in the Court today, which are taken on record.

Petitioner Sukhdev Singh alias Deba has approached this Court by way of filing the present petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to him in case FIR No.102 dated 30.09.2017 under Section 21 along with added Section 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short the - 'NDPS Act') registered at Police Station - Harike, Distt. Tarn Taran, during pendency of the trial.

Learned counsel for the petitioner submits that the petitioner has falsely been implicated in the case, whereas he was not involved. He is in custody since 30.09.2017. Investigation has been completed and challan has been presented in the Court on 17.03.2018. Learned counsel also submits that even a single prosecution witness has not been examined so far and trial will take long time to conclude. There is no other case of NDPS Act against him. The earlier petition for bail was dismissed as withdrawn as the investigation was not completed at that stage. Learned counsel also submits that there is no compliance of the mandatory provisions as envisaged under Sections 50 and 42 of the NDPS Act. The alleged recovery is marginal more than the commercial quantity as the petitioner is found in possession of 265 grams heroin and above 250 grams heroin falls under the the commercial quantity. No purpose would be served by keeping him in custody.

Learned State counsel has not disputed the period of custody undergone by the petitioner and also the stage of the trial to the effect that no prosecution witness has been examined so far and no other case of NDPS Act is there against him.

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

By considering the custody period of more than one year undergone by the petitioner and the fact that no other case of NDPS Act is there against him; even a single prosecution witness has not been examined so far; all the prosecution witnesses are official witnesses and there is no

possibility that the petitioner may influence them or tamper with the evidence, the present petition is allowed and the petitioner is directed to be released on regular bail to the satisfaction of the trial Court.

21.11.2018

sunil yadav

**(DAYA CHAUDHARY)
JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No