

Sr. No.207

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

**CRM-M-27406-2018
Date of decision:7.12.2018**

Gurcharan Singh @ Kalu

.....Petitioner

versus

State of Haryana

.....Respondent

Coram: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present: Mr. Manoj K.Tanwar, Advocate
for the petitioner.

Mr. Vijesh Sharma, DAG Haryana.

Rajbir Sehrawat, J(Oral)

Present petition has been filed for seeking bail pending trial in FIR No.40, dated 10.03.2018 for the offences punishable under Sections 15 & 18 of NDPS Act, 1985 registered at Police Station Garhi, District Jind.

Learned counsel for the petitioner contends that the case against the petitioner is concocted. It is further contended that even as per the case of the prosecution, the alleged recovery from the petitioner is of 1.50 kg of opium. This is non-commercial quantity. Still further, it is contended that even at the stage of anticipatory bail, this Court had directed the petitioner to surrender before the Trial Court on 01.05.2018; with a further direction that in case he so surrenders before the Court and moves an application for grant of regular bail then the same would be considered within a period of 10 days. However, due to unavoidable circumstances petitioner could not surrender before the Trial Court on 01.05.2018, instead, he surrendered on 02.05.2018. Therefore, inter alia, because of this reason,

the application for bail filed by the petitioner has been dismissed. It is further contended that the petitioner is in custody since 02.05.2018. Challan has already been filed in the case. Petitioner is no more required for any further investigation purposes.

On the other hand, learned State counsel, being instructed by ASI Pawan, submits that the petitioner is a habitual offender. There have been 10 more cases of similar nature against the petitioner. Therefore, the petitioner does not deserve concession of bail . However, it is not disputed that the alleged recovery from the petitioner in the case is of non-commercial quantity. Still further, it is not disputed that challan has already been filed in the case.

In response to the submissions made by learned State counsel, learned counsel for the petitioner submits that out of 10 cases, the petitioner has already been acquitted in 6 cases. 2 cases are still pending against the petitioner and in 2 cases petitioner has been convicted. However the petitioner is on bail in all those cases. Except the present case, petitioner is not in custody in any other case as of now.

In view of the above, but without commenting upon the merits of the case, the petition is allowed. Petitioner is granted the concession of bail pending trial. He be released on bail pending trial subject to furnishing bail bonds/surety to the satisfaction of the Trial Court/Duty Magistrate.

7th December, 2018

Shivani Kaushik

**[RAJBIR SEHRAWAT]
JUDGE**

Whether speaking/reasoned *Yes/No*

Whether Reportable *Yes/No*