

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

CRM-M No. 29343 of 2018

Date of decision : 31.10.2018

Jatinder Singh alias Sheru

.....Petitioner

Versus

State of Punjab

...Respondent

CORAM : HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present : Mr. A. S. Bhatti, Advocate for the petitioner.

Mr. Rashmi Attri, AAG, Punjab.

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DAYA CHAUDHARY, J. (Oral)

Petitioner Jatinder Singh alias Sheru has filed the present petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to him in case FIR No.114 dated 12.10.2017 under Sections 307, 482, 34 of the Indian Penal Code, 1860 and Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short – 'NDPS Act') and Section 25 of the Arms Act, 1959 registered at Police Station – Haryana, Distt. Hoshiarpur, during pendency of the trial.

Learned counsel for the petitioner submits that the petitioner has falsely been implicated in the present case, whereas he was not involved. As per the allegations in the FIR, the search was conducted in

presence of DSP (SB) Harjinder Singh and 210 grams intoxicant powder was recovered from driver Amrit Singh and 225 grams intoxicant powder was recovered from Satnam alias Karori, who was sitting with the driver in front portion of the car. One .32 bore pistol and three live cartridges were also recovered from Satnam. Learned counsel further submits that as per allegations in the FIR, the petitioner along with co-accused Shubham was sitting behind the driver seat but no objectionable item was recovered from them. On the basis of disclosure statements suffered by co-accused Satnam Singh and Shubham, other co-accused namely Hemank, Chetan Sharma and Atinder Singh were arrested in the case. Learned counsel further submits that the bail application filed by the petitioner has been dismissed only on the ground his name was mentioned in the FIR. He is in custody since 12.10.2017 and even a single prosecution witness has not been examined so far. Co-accused namely Chetan Sharma and Hemank Joshi have been released on regular bail by this Court vide orders dated 01.06.2018 and 28.05.2018, respectively. No other case of NDPS Act is there against the petitioner. All the prosecution witnesses are official witnesses and there is no possibility that the petitioner may tamper with the evidence or influence the witnesses. No purpose would be served by keeping the petitioner behind the bars.

Learned State counsel has not disputed the period of custody undergone by the petitioner as well as the factum of releasing of two co-accused on regular bail, but he has opposed the submissions made by learned counsel for the petitioner on the ground that the petitioner cannot

claim parity with said two co-accused who have been released on regular bail, as his role is different. Said two co-accused were involved on the basis of the disclosure statement, whereas name of the petitioner is mentioned in the FIR. He submits that this is the second petition and the earlier petition was dismissed.

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

Facts regarding custody of the petitioner since 12.10.2017 and that no prosecution witness has been examined so far, have not been disputed by learned State counsel. It is also not disputed that co-accused namely Hemank Joshi and Chetan Sharma have been released on regular bail. Earlier petition for bail *i.e.* CRM-M No.4976 of 2018 filed by the petitioner was dismissed as withdrawn on 15.02.2018 and the present petition has been filed when two co-accused have been released on regular bail.

By considering the period of custody undergone by the petitioner and keeping in view the facts that two co-accused have been released on regular bail; even a single prosecution witness has not been recorded so far; all the prosecution witnesses are official witnesses and there is no possibility to tamper with the evidence or to influence the witnesses; trial may take some time to conclude and no purpose would be served by keeping the petitioner in custody as no other case is there against him, the present petition is allowed and the petitioner is directed to be

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

31.10.2018

sunil yadav

**(DAYA CHAUDHARY)
JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No