

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.32073 of 2018 (O&M)

Decided on: 29.10.2018

Avtar Singh

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Yashpal Thakur, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for grant of regular bail to the petitioner under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.24 dated 13.04.2018, for offence punishable under Section 22/61/85 of the Narcotic Drug and Psychotropic Substances Act, 1985 (in short 'the NDPS Act'), registered at Police Station Badali Ala Singh, District Fatehgarh Sahib.

Counsel for the petitioner has submitted that as per the allegations in the FIR, the entire investigation was conducted by one officer namely SI Sandeep Kaur and even the notice under Section 50 of the NDPS Act was given by her and the search was also conducted by the same officer and later on, further investigation was also carried out by the same officer, thus, it will be a debatable issue whether the judgment rendered by the Hon'ble Supreme Court "***Mohan Lal vs State of Punjab***" passed in Criminal Appeal No.1880 of 2011, decided on

16.08.2018, will be applicable in this case or not. Counsel for the petitioner has further submitted that the petitioner is in custody since 13.04.2018, he is not involved in any other case and it will take some time in conclusion of the trial.

Counsel for the State, on instructions from SI Sandeep Kaur has not disputed the factual position but opposed the prayer for bail.

Without commenting anything on merits of the case, considering the fact that the petitioner is in custody for the last about 06 months; he is not involved in any other case and also in view of the fact that conclusion of the trial is likely to take some time, this petition is allowed and the petitioner is directed to be released on bail subject to his furnishing bail/surety bonds, to the satisfaction of the trial Court/Duty Magistrate/Illaq Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail of the petitioner, in case he is found involved in any other case or misusing the concession of bail, in any manner.

(ARVIND SINGH SANGWAN)
JUDGE

29.10.2018

yakub

Whether speaking/reasoned

Yes/No

Whether reportable:

Yes/No