

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

**CRM-M No.3262 of 2018
Decided on: 07.03.2018**

Gurmeet Singh

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Ankur Lal, Advocate
for the petitioner.

Mr. Himmat Singh, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (Oral)

The petitioner prays for grant of regular bail under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.103 dated 21.08.2017, for offence punishable under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, (in short 'the NDPS Act'), registered at Police Station Siwan, District Kaithal.

Counsel for the petitioner has submitted that the petitioner has already been granted regular bail in another FIR No.372 dated 11.08.2016 by this Court vide order dated 22.11.2016 passed in CRM-M No.39771 of 2016. Counsel for the petitioner has further submitted that in the said case, the petitioner was granted bail on the ground that though, his arrest was shown in District Kaithal, however, he had primarily some evidence of a CCTV footage of Dhaba at Murthal, District Sonapat regarding his presence.

Counsel for the petitioner has further argued that the

petitioner has filed another petition i.e. CRM-M No.30977 of 2016 praying for a proper enquiry in the aforesaid FIR where the petitioner was granted bail and the same is pending. It is further submitted that in the present FIR, when the alleged notice under Section 50 of the NDPS Act was served on the petitioner, it finds mention of FIR number and details of Sections, under which the FIR has been registered whereas at that stage, there was no occasion for the Investigating Officer to mention the FIR number as the FIR was registered much later, after the Gazetted Officer came at the spot and the recovery was effected. Counsel for the petitioner has further submitted that recovery is from the dicky of the car and the driver and owner of the said car have already been arrested and it will be a debatable issue whether the petitioner was in conscious possession of the recovery so effected or not.

Counsel for the petitioner has further argued that the total contraband recovered is of 52 Kgs. which is marginally higher than the commercial quantity and perusal of the FIR show that while weighing the contraband, the weight of 03 bags in which the same was kept, was also included. In support of his arguments, counsel for the petitioner has relied upon the judgment ***“Charanjit Singh @ Phuman vs State of Punjab”***, 2015(27) RCR (Criminal) 883, where this Court has granted the concession of bail after considering the fact that the recovery is of 52 Kgs of poppy husk and the weight of the bags was included while weighing the said contraband.

Counsel for the petitioner has also relied upon the judgment passed by this Court ***“Manju vs State of Punjab”***, 2015(9)

RCR (Criminal) 41 where the recovery of 52 Kgs of poppy husk was effected from 02 bags and considering the fact that it was marginally above the commercial quantity, the accused was granted the concession of bail.

Counsel for the State, on the other hand, has filed the Custody Certificate today in the Court and opposed the prayer for bail. It is also submitted that the challan has already been presented and the prosecution evidence is yet to start.

Without commenting anything on merits of the case and considering the fact that the petitioner has already been granted the concession of bail in earlier petition i.e. CRM-M No.39771 of 2016 wherein he had primarily shown that he was falsely implicated and subsequently he has filed another petition i.e. CRM-M No.30977 of 2016 praying for proper investigation of the said FIR; the petitioner is in judicial custody since 21.08.2017; the prosecution evidence is yet to start; the notice under Section 50 of the NDPS Act finds mention of FIR number and other details of the case, though, as per the FIR, the information was sent to the police much after effecting the recovery; the recovery effected from the petitioner is marginally higher than the commercial quantity and while weighing the contraband, the weight of the bags were also included; conclusion of trial is likely to take some time, the petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail/surety bonds to the satisfaction of the trial court/Illaqa Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail, if the petitioner is found involved misusing the

concession of bail, in any manner.

(ARVIND SINGH SANGWAN)
JUDGE

07.03.2018
yakub

Whether speaking/reasoned	Yes/No
Whether reportable:	Yes/No