

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

**CRM-M No.34111 of 2017
Decided on: 20.08.2018**

Avtar Singh @ Tari @ Mintu

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. S.K. Jain, 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.14 dated 06.04.2017, 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 City-2, Mansa.

Learned counsel for the petitioner has submitted that during the investigation of FIR No.23 dated 06.04.2017 registered under the NDPS Act, it came to the notice of the Investigating Officer from the disclosure of accused arrested in the said FIR that the said accused has purchased the narcotics from the petitioner. It is further submitted that the petitioner was never arrested as a co-accused in the aforesaid FIR No.23 dated 06.04.2017 and on the basis of the said information, the present FIR has been registered with the allegations that when the police party met the petitioner, he disclosed his name and identity and made a confessional statement that he has concealed

certain contraband at his residence. It is also submitted that it will be a debatable issue to be decided during the course of trial whether the mandatory provisions of Section 42 of the NDPS Act have been complied with or not.

Learned counsel for the petitioner has further argued that the petitioner is not involved in any other case and he is in custody since 06.04.2017. It is also submitted that only 02 prosecution witnesses have been examined and conclusion of the trial will take some time.

In reply, learned counsel for the State, on instructions from ASI Pardeep Kumar, has submitted that the recovery falls in commercial quantity, however, it is not disputed that the petitioner was neither arrayed as an accused in FIR No.23 dated 06.04.2017 nor he is involved in any other case. It is also stated that only 02 prosecution witnesses have been examined so far and the remaining PWs are yet to be examined.

Without commenting anything on merits of the case, considering the fact that the petitioner is in custody since 06.04.2017; he is not involved in any other case; only 02 prosecution witnesses have been examined so far and also in view of the fact that it is to be decided during the course of trial whether the mandatory provisions of Section 42 of the NDPS Act have been complied with or not, this 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/Illaq Magistrate/Duty 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.

20.08.2018

(ARVIND SINGH SANGWAN)

JUDGE

<i>yakub</i>	Whether speaking/reasoned	Yes/No
	Whether reportable:	Yes/No