

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

**CRM-M No.37652 of 2018 (O&M)**

**Decided on: 29.10.2018**

Raju Singh

....Petitioner

Versus

State of Punjab

....Respondent

**CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN**

**Present :** Mr. D.N. Ganeriwala, 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.296 dated 20.09.2017, for offence punishable under Sections 21/22/29/61/85 of the Narcotic Drug and Psychotropic Substances Act, 1985 (in short 'the NDPS Act'), registered at Police Station City Barnala, District Barnala.

Counsel for the petitioner has submitted that the petitioner is in custody since 22.09.2017 and no other case under the NDPS Act is pending against him. It is further submitted that the investigation in this case was carried out by ASI Gurbachan Singh, who himself served the notice under Section 50 of the NDPS Act to the petitioner and thereafter, conducted the search of the petitioner and subsequently, the investigation was also conducted by the same officer, therefore, 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 as the informant and the Investigating Officer are the same person.

Counsel for the State, on instructions from ASI Balwinder Singh, has not disputed the factual position but opposed the prayer for bail. It is further submitted that challan has been presented and charges have been framed, however, no prosecution witness has been examined, so far.

Without commenting anything on merits of the case, considering the fact that the petitioner is in custody since 22.09.2017; he is not involved in other case under the NDPS Act; charges have been framed and no witness of the prosecution has been examined 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/Illaqa 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*

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