

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

Sr.No.210

CRM-M-38484-2018

Date of Decision:30.10.2018

Jitender Singh @ Kaka

....petitioner

Versus

State of Haryana

.....respondent

CORAM: HON'BLE MR.JUSTICE ARVIND SINGH SANGWAN

Present: Mr.D.P.S.Bajwa, Advocate
for the petitioner

Mr.Himmat Singh, DAG Haryana

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.123 dated 17.07.2018, for offence punishable under Sections 15,61,85 of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, “NDPS Act”), registered at Police Station Garhi, District Jind.

Counsel for the petitioner has submitted that the recovery effected from the petitioner is of non-commercial quantity. Learned counsel for the petitioner has referred to the FIR, wherein, the allegations are that the petitioner was seen by the police party carrying a plastic bag and when he was apprehended by SI Jaivir Singh-Investigating Officer, on the notice given under Section 50 of the NDPS Act, the search was conducted and subsequently investigation was carried out by the said officer. Therefore, it would 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 17.07.2018, 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 ASI Ashok has not disputed the factual position, however, submits that certain other cases against the father of the petitioner are pending. However, the petitioner is not involved in any other case.

Without commenting anything on merits of the case, considering the fact that the recovery from the petitioner is of non-commercial quantity, the petitioner is not involved in any other case and also in the light of the judgment of the Hon'ble Supreme Court in *Mohan Lal's case (supra)*, 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

30.10.2018

neenu

Whether speaking/reasoned
Whether reportable-

Yes/No.
Yes/No