

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

CRM-M No.39681 of 2017

Date of decision : 28.05.2018

Jatinder Kumar

.....Petitioner

Versus

State of Punjab

...Respondent

CORAM : HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present : Mr. Ashe Kumar Goyal, Advocate for the petitioner.

Ms. Jaspreet Kaur, AAG, Punjab.

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DAYA CHAUDHARY, J. (Oral)

Petitioner has filed this petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to him in case FIR No.35 dated 15.04.2017 under Sections 21, 25, 27-A of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short – 'the NDPS Act') registered at Police Station Kot Fatta, Distt. Bathinda, during pendency of the trial.

First petition filed by the petitioner was dismissed as withdrawn and thereafter, under the changed circumstances, the present petition has been filed as challan has been presented and charges have been framed.

Learned counsel for the petitioner submits that the name of the

petitioner has not been mentioned in the FIR and no recovery was effected from him. He also submits that the petitioner is neither owner of the alleged car nor was occupant of the same, which is mentioned in the FIR. There is no connecting evidence to implicate the petitioner in the present case. Main accused namely Kulwinder Singh and Amrik Singh are the persons from whom the recovery has been effected. Learned counsel submits that on the basis of statement of co-accused the petitioner has been implicated. Co-accused Surinder Kumar has approached this Court by way of filing CRM-M No.18703 of 2017 and he has been released on anticipatory bail vide order dated 30.10.2017. The petitioner is in custody since 06.05.2017. There is only one more case of NDPS Act, wherein he has been released on regular bail. No purpose would be served by keeping him in custody as trial will take long time to conclude.

Learned State counsel has not disputed the custody period as well as the factum of releasing of co-accused Surinder Kumar on anticipatory bail and also that the petitioner was not present at the spot and nothing was recovered from him. However, learned State counsel submits that the petitioner is owner of the vehicle/car from where the recovery was effected.

However, learned counsel for the petitioner submits that there is no document to show the ownership of petitioner of the vehicle from where the recovery was effected.

Keeping in view the submissions made by learned counsel for the petitioner and also the facts that petitioner has been implicated on the

basis of statement made by co-accused; he was not found to be present at the place of occurrence; nothing has been recovered from him; in the other case of NDPS he is on bail and co-accused has been released on anticipatory bail, accordingly, the present petition is allowed and petitioner Jatinder Kumar is directed to be released on regular bail on furnishing adequate bail bonds/surety bonds to the satisfaction of the trial Court.

28.05.2018

sunil yadav

**(DAYA CHAUDHARY)
JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No