

221.

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

CRM-M-42946-2018

Date of decision:11.10.2018.

SUKHDEV SINGH @ KALA

... Petitioner

Versus

STATE OF PUNJAB

.... Respondent

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. P.B.S. Goraya, Advocate,
for the petitioner.

Mr. Surinder Pal Singh Tinna, Additional Advocate General,
Punjab.

HARI PAL VERMA, J.(Oral)

Prayer in the present petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in case FIR No.83 dated 19.07.2018 registered under Section 21 of NDPS Act, 1985 at Police Station Chohla Sahib, District Tarn Taran.

As per the FIR on 19.07.2018 when the police party was on patrolling in search of antisocial elements and had just crossed the village Mohanpura, the secret informer gave a signal to the police party and informed that in the area of Chohla Sahib, three persons, namely, Mandeep Singh, Sukhdev Singh @ Kala (present petitioner) and Nachhater Singh are supplying heroine in a white swift car of Mandeep Singh with registration number "A/F" and they are going towards village Mohanpura from Waria side and if action is taken, then they can be apprehended with huge quantity

on it, was seen coming towards Mohanpura village side and noticing the police party, the driver of the car stopped the car and took out one black colour bag from his pocket from the trouser and threw it on the ground. Thereafter, he ran away towards north side in the paddy field. The SI/SHO already knew that person as Mandeep Singh. The remaining two occupants of the car were arrested and they disclosed their names as Nachattar Singh and Sukhdev Singh @ Kala. Upon search, a black colour polythene bag containing heroine was recovered from the side pocket of the *kurta* of the present petitioner and the recovered quantity was found to be 10 grams heroine which was put up in a plastic *dabbi* and a separate parcel was prepared.

Learned counsel for the petitioner has argued that the petitioner is in custody since 19.07.2018. The alleged recovery is 10 grams of heroine, which falls under non-commercial category. There is no other case against the petitioner. The charges are yet to be framed and the trial in the case will take long time.

On the other hand, learned State counsel states that no doubt the petitioner is in custody since 19.07.2018, but the total quantity is required to be seen at this stage. The petitioner was in conscious possession of the quantity recovered from the other co-accused as well as the quantity thrown by Mandeep Singh.

I have heard learned counsel for the parties.

There is no doubt that the police has recovered 10 grams of heroine from the personal possession of the petitioner and the quantity falls under non-commercial category. The fact as to whether the quantity

can be considered as in a conscious possession of the petitioner, is yet to be adjudicated during trial. Though one other case was registered against the petitioner i.e. FIR No.36 dated 04.04.2013 under Section 22 of NDPS Act, Police Station Chohla Sahib, but in that case, he is stated to have been acquitted by the trial Court vide judgment dated 07.09.2016.

Considering the fact that the petitioner was found in possession of 10 grams of heroine and the trial in the case will take long time, he is admitted on regular bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court.

It is made clear that in case the petitioner is found indulged in any other case, the prosecution shall be at liberty to seek cancellation of his bail.

Accordingly, present petition is allowed.

(HARI PAL VERMA)
JUDGE

11.10.2018
sanjeev

Whether speaking/reasoned
Whether Reportable:

Yes/No.
Yes/No.