

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

**CRM-M No. 45674 of 2017**

**DATE OF DECISION :- January 23, 2018**

**Karan Kumar**

**...Petitioner**

**Versus**

**State of Punjab**

**...Respondent**

**CORAM: HON'BLE MR. JUSTICE H.S. MADAAN**

**Present:-** Mr. Varun Dhawan, Advocate for the petitioner.

Mr. Ramandeep Singh Sandhu, Sr. DAG, Punjab.

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This petition has been filed by petitioner Karan Kumar, an accused in F.I.R. No. 126 dated 28.6.2014 under Section 15 of the NDPS Act, 1985 on the allegations that on 28.6.2014, at about 4.00 P.M. in the area of near Government Senior Secondary Schools, Nichi Mangli a police party from Police Station Sahnewal, Ludhiana had intercepted a motor cycle which was being driven by Karan Kumar on which accused Jatinder Parsad Yadav was pillion riding carrying two plastic bags containing 57 Kgm of poppy husk. Both the accused were arrested and after completion of investigation they have been sent to face trial.

The petitioner had moved an application for regular bail in the Court of Sessions but that was dismissed. As such, he has approached this Court for grant of regular bail, which is being resisted by the State counsel.

I have heard learned counsel for the petitioner and learned State counsel besides going through the record.

As per custody certificate placed on file by the learned State

counsel, petitioner is in custody for 2 years 1 month and 2 days on 8.12.2017 but then he is shown to be convicted in another case under NDPS Act bearing F.I.R. No. 227 of 2012 under Section 15 of the NDPS Act Police Station Kashmiri Gate, New Delhi. That means he has got a past criminal record of indulging in drug trafficking.

Learned counsel for the petitioner has stated that co-accused of the petitioner has been granted bail by this Court, therefore, petitioner be given bail on the ground of parity. However, learned State counsel resisted the request stating that in view of the bar of Section 37 of the NDPS Act, since it is a case of commercial quantity, bail should not be granted to the petitioner. After hearing the rival contentions, I find that grant of bail on parity is based upon principle of equity but then the statutory provisions cannot be given go bye while considering the question of parity. Here the public prosecutor is opposing the petition and I do not find any reason to record the satisfaction that there are reasonable grounds for believing that petitioner is not guilty of such offence for that he is not likely to do any offence while on bail. Therefore, finding no merit in the petition, the same stands dismissed.

**(H.S. MADAAN)**  
**JUDGE**

**January 23, 2018**  
*p.singh*

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No