

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

**Criminal Misc. No. M-5276 of 2018
Date of decision: 26.09.2018**

Pawan Kumar

..Petitioner

Versus

State of Punjab

..Respondent

CORAM: HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present: Mr. T.V.S. Lehal, Advocate
for the petitioner.

Mr. Amit Mehta, Sr. DAG, Punjab
for the respondent -State.

Daya Chaudhary, J.

Petitioner-Pawan Kumar has filed the present petition under Section 439 Cr.P.C. for releasing him on regular bail during pendency of the trial in case FIR No.18 dated 09.11.2016 registered under Sections 22, 61, 85 of the Narcotic Drugs and Psychotropic Substances Act, 1985 and Section 25 of the Arms Act at Police Station SSOC, District Amritsar.

Learned counsel for the petitioner submits that the petitioner has falsely been implicated in the case. As per allegations levelled in the FIR, the Police party was informed by a secret informer and thereafter, recovery alleged to be 500 gms heroin and ₹39,73,000/- in cash was effected from main accused-Abhishek Chetal. The names of petitioner and other accused were added and were arrested subsequently on the ground that they had formed a gang for drug smuggling activities. Learned counsel further submits that the petitioner was already confined in Jail at Hoshiarpur

in some other case. He was arrested in this case on 21.12.2016. Co-accused of the petitioner, namely, Gurbhej Singh @ Bheja and Kamal Kumar @ Bori have been released on regular bail by this Court. Learned counsel also submits that the provisions of Section 50 of the NDPS Act have not been followed as the petitioner was never informed about his right to be searched before the Magistrate or the Gazetted Officer. Learned counsel also submits that no recovery was effected from the petitioner and his custodial interrogation is not required as the challan has been presented. No other case is pending against him. All the witnesses are official witnesses and there is no possibility that the petitioner may influence the witnesses or tamper with the evidence. Moreover, proceedings before the trial Court have been stayed by this Court vide order dated 25.08.2017 passed in Criminal Misc. No. M-44010 of 2016.

Learned State counsel has not disputed the custody period; stage of trial and also release of co-accused on regular bail by this Court.

Heard arguments of learned counsel for the petitioner as well as learned State counsel and have also perused the contents of the FIR and other documents available on the file.

In view of the submissions made by learned counsel for the petitioner and by considering the custody period since 21.12.2016; his co-accused, namely, Gurbhej Singh @ Bheja and Kamal Kumar @ Bori, have been released on regular bail by this Court; main accused-Abhishek Chetal has also approached this Court by way of filing Criminal Misc. No. M-12588 of 2018 and has been released on regular bail vide order dated 26.09.2018; the trial may take time to conclude as proceedings before the

trial Court have been stayed; no purpose would be served by keeping the petitioner in custody as all witnesses are official witnesses and there is no possibility that the petitioner may influence the witnesses, the present petition is allowed and the petitioner (Pawan Kumar) is directed to be released on regular bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court.

However, in case, the petitioner is found to be involved in any other case of NDPS, the State is at liberty to move an application for cancellation of bail.

26.09.2018
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(DAYA CHAUDHARY)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	No