

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

CRM-M No.8532 of 2018

Date of Decision: 10.10.2018

Karu Lal Patidar

....Petitioner

Versus

Narcotics Control Bureau, Chandigarh

....Respondent

BEFORE :- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present:- Mr. Vipul Jindal, Advocate
for the petitioner.

Mr. D.D. Sharma, Advocate
for the respondent.

DAYA CHAUDHARY, J.

Petitioner-Karu Lal Patidar has approached this Court by way of filing the present petition under Section 439 Cr.P.C for grant of regular bail to him in case NCB Crime No.56 dated 09.09.2017 registered under Sections 8, 18 and 29 of the NDPS Act at Police Station District Ludhiana.

Learned counsel for the petitioner submits that the petitioner has falsely been implicated in the case, whereas, he was not involved. He has been involved on the basis of statement made by co-accused Boota Singh. Learned counsel also submits that the petitioner was picked up by the officials of NCB while they were in plain clothes on 30.11.2017, whereas, no complaint has been filed till date in the Court. Further because of remand papers, detailing the allegations, the petitioner has been kept in custody and has been denied the concession of bail pending trial. Learned

counsel also submits that co-accused Boota Singh was arrested by the Intelligence Officer of NCB on 09.09.2017 and recovery of 5.270 kgs of opium, 2.100 kgs of poppy husk and cash of Rs.2,30,250/- and 4.024 kgs of poppy husk was effected from him on 13.11.2017. Said substances were kept concealed in a truck. Boota Singh tendered his statement under Section 67 of the NDPS Act and the name of the petitioner came stating to be the provider of said opium to co-accused Boota Singh which was to be handed over further to Devender Narwal, who was resident of Ludhiana. Learned counsel also submits that there is no other material/evidence to involve the petitioner in the commission of offence as no recovery was effected from him. The bail petition filed by the petitioner was dismissed by invoking provisions of Section 37 of the NDPS Act, whereas, the petitioner was not found to be in conscious possession of the contraband and hence, the provisions of Section 37 of the NDPS Act are not applicable. Learned counsel also submits that the petitioner was present in the Court premises at S.A.S. Nagar concerning a case under the provisions of Prevention of Corruption Act on 30.11.2017. Thereafter, when he was about to leave the Court premises, he was picked up by 4-5 persons at 3.45 p.m, who were waiting near the main gate. They disclosed that they were from Ludhiana Police. An application was moved before the Duty Magistrate SAS Nagar, which was duly supported by an affidavit of Clerk of the counsel detailing the entire offence and calling for an inquiry from the SHO, Police Station Sohana. Learned counsel also submits that the provisions of Section 37 of the NDPS Act are not applicable as the recovery was not effected from the physical possession of the petitioner. There is no evidentiary value of the confessional statement and the petitioner is entitled for regular bail as he is

in custody since 30.11.2017 and there is no other case pending against him.

Learned counsel for the respondent-Narcotics Control Bureau has opposed the submissions made by learned counsel for the petitioner. However, the custody period has not been disputed.

Heard the arguments of learned counsel for the parties and have also perused the documents available on the file.

By considering the submissions made by learned counsel for the petitioner that the petitioner has been implicated on the basis of disclosure statement made by co-accused Boota Singh; the recovery was not effected from the conscious possession of the petitioner; he is in custody since 30.11.2017; the disclosure statement made by co-accused has no evidentiary value; the role of the petitioner and also the fact that there is no connecting evidence to involve the petitioner other than the confessional statement, the present petition is allowed and petitioner, namely, Karu Lal Patidar is directed to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court

(DAYA CHAUDHARY)
JUDGE

10.10.2018
gurpreet

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No