

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

**CRM-M No.957 of 2019
Decided on: 16.01.2019**

Ravinder Parsad

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Ramesh Sharma, Advocate
for the petitioner.

Mr. M.S. Nagra, AAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for grant of regular bail to the petitioner under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.245 dated 30.11.2017, for offence punishable under Section 22 of the Narcotic Drug and Psychotropic Substances Act, 1985 (in short 'the NDPS Act') registered at Police Station City Phagwara, District Kapurthala.

Counsel for the petitioner has submitted that the petitioner was granted interim bail on 23.01.2018, awaiting the report of the FSL and thereafter, he has surrendered on 14.12.2018 and is in custody since then. It is further submitted that the petitioner is not involved in any other case and he is facing the trial.

Counsel for the petitioner has further argued that as per the allegations in the FIR, the complainant ASI Sucha Singh, apprehended the petitioner on suspicion and after disclosing his identity, he gave an

offer to the accused either to be searched before the Gazetted Officer or the Magistrate and when the petitioner reposed confidence in the said Investigating Officer, he (ASI Sucha Singh) himself conducted the search and after the alleged recovery was made, he carried out the further investigation.

Counsel for the petitioner has, thus, submitted that at no point of time, the second Investigating Officer was called and the entire investigation including the recovery was conducted by the same Investigating Officer, therefore, it will be a debatable issue whether the judgment rendered by the Hon'ble Supreme Court ***“Mohan Lal vs State of Punjab”*** passed in Criminal Appeal No.1880 of 2011, decided on 16.08.2018, will be applicable in this case or not as the Investigating Officer was the same person, who conducted the entire investigation.

Counsel for the State, on instructions from the Investigating Officer, has filed the Custody Certificate today in the Court and has not disputed the factual position but opposed the prayer for bail. It is also not disputed that the petitioner was on interim bail and, thereafter, on receiving the FSL report, he had surrendered before the trial Court and he is again in judicial custody. Counsel for the State has also not disputed the fact that the petitioner is not involved in any other case.

Without commenting anything on merits of the case, considering the fact that the entire investigation was carried out by the same Investigating Officer and conclusion of the trial is likely to take some time, this petition is allowed and the petitioner is directed to be released on bail subject to his furnishing bail/surety bonds to the

satisfaction of the trial Court/Duty Magistrate/Illaqa Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail of the petitioner, in case he is found involved in any other case or misusing the concession of bail, in any manner.

(ARVIND SINGH SANGWAN)
JUDGE

16.01.2019

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Whether speaking/reasoned	Yes/No
Whether reportable:	Yes/No