

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

**CRM-M No.3779 of 2019
Decided on: 20.11.2019**

Jugraj Singh @ Gaji

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. A.S. Brar, Advocate for the petitioner.

Mr. Jagmohan Ghumman, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

The petitioner prays for grant of regular bail under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.208 dated 23.09.2018, for offence punishable under Section 22 of the Narcotic Drugs and Psychotropic Substances Act (in short 'the NDPS Act') registered at Police Station City South Moga, District Moga.

Counsel for the petitioner has submitted that as per the allegations in the FIR, ASI Balvir Singh apprehended the petitioner on suspicion and after he was given a notice to be searched before a Gazetted Officer or the Magistrate, the petitioner reposed confidence in him and thereafter, he himself conducted the entire search and completed the investigation. It is further argued that it is a matter of trial whether the proper procedure was followed while conducting the search of the petitioner. It is also submitted that the petitioner has set up a defence in the shape of the CCTV footage to show that the petitioner was taken away from his house 02 days prior to registration of the FIR

and even on the subsequent dates, the relatives of the petitioner have given complaints to the police authorities and this fact will be decided at appropriate stage when the case be fixed for defence evidence. It is also argued that the petitioner is not involved in any other case under the NDPS Act, however, he is involved in cases registered under the Excise Act wherein he is on bail.

Counsel for the State, on instructions from ASI Kulwant Singh, has not disputed the fact that the petitioner is in custody since 23.09.2018 and only 01 prosecution witness has been examined so far. It is also argued that the petitioner is involved in 08 FIRs under the Excise Act, however, he is on bail in those cases.

Without commenting anything on merits of the case, considering the fact that the petitioner is not involved in any other case under the NDPS Act; only 01 prosecution witness has been examined so far; the conclusion of the trial is likely to take some time and also in view of the period of judicial custody already undergone by the petitioner, this petition is allowed and the petitioner is directed to be released on regular bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate.

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

(ARVIND SINGH SANGWAN)
JUDGE

20.11.2019
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Whether speaking/reasoned	Yes/No
Whether reportable:	Yes/No