

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

**CRM-M-4618-2019
Date of decision: 25.04.2019**

Kulwant Singh @ Manga

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- ASI Rachhpal Singh.

ARVIND SINGH SANGWAN, J. (Oral)

This petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 59 dated 18.05.2018, registered under Section 15 of the NDPS Act, 1985 at Police Station Sadar Sri Muktsar Sahib, District Sri Muktsar Sahib.

As per allegations in the FIR, the Investigating Officer, on apprehension, stopped a car in which three persons, namely Rajpal Singh, the driver, Kulwant Singh @ Manga, petitioner herein and Baljit Singh @ Billa @ Nikka, were coming. The Investigating Officer gave them offer to be searched either before a Gazetted Officer or before a Magistrate and when they reposed confidence in him, he conducted the search of the car and found a plastic bag from the boot of the car which was containing 15 Kg. of poppy husk.

The petitioner is in judicial custody since 19.05.2018 and though he is named as accused in one more FIR under the NDPS Act, however, as per custody certificate filed today in Court, he is on bail in that case.

ASI Rachhpal Singh, who is present in Court, on a query posed

by the Court, submits that the owner of the car was found to be co-accused Rajpal Singh and nothing was recovered from the personal search of the accused persons.

In view of the fact that recovery was effected from the boot of the car which was owned and driven by co-accused Rajpal Singh, it will be a debatable issue whether the petitioner was in conscious possession of the contraband recovered.

Therefore, without commenting upon the merits of the case, considering the fact that the petitioner is in judicial custody since 19.05.2018 and the case is still at the stage of start of recording statement of prosecution witnesses and it will take some time in conclusion of the trial, the instant petition is allowed. The petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

25.04.2019

Waseem Ansari

**(ARVIND SINGH SANGWAN)
JUDGE**

*Whether speaking/reasoned
Whether reportable*

*Yes/No
Yes/No*