

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.5736 of 2019
Decided on: 13.02.2019

Manga Singh

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Ashish Aggarwal, 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.44 dated 04.07.2018, for offence punishable under Sections 21, 29 of the Narcotic Drug and Psychotropic Substances Act (in short 'the NDPS Act'), registered at Police Station Khalra, District Tarn Taran.

Counsel for the petitioner has relied upon the order dated 21.01.2019 passed by this Court in CRM-M No.771 of 2019, vide which regular bail has been granted to co-accused of the petitioner namely Sukhraj Singh @ Kala. The operative part of the order dted 21.01.2019 reads as under:-

“...Learned counsel for the petitioner submits that after the petitioner, along with two other persons namely Manga Singh and Ajay Pal Singh, was apprehended, complainant/ASI Gurcharan Singh recorded their non-

consent memo that they want to be searched before a Gazetted Officer. It is further submitted that non-consent memo was a joint memo, on which the consent of all the three accused persons was taken.

*Learned counsel for the petitioner further submits that when the DSP, Sub Division, Valtoha Camp and Bhikhiwind was called at the spot and even he recorded the consent memo, which was jointly signed by all the three accused. In this regard, learned counsel relies upon a judgment of the Hon'ble Supreme Court in **State of Rajasthan Vs. Parmanand and another, 2014 (2) RCR (Criminal) 40** to submit that where a joint consent memo is recorded, it is not a valid offer as per Section 50 of the NDPS Act. Learned counsel has further submitted that the petitioner is in judicial lockup since 09.07.2018 and is not involved in any other case.*

Learned State counsel, on instructions from ASI Hardeep Singh, could not dispute the factual position, however, he has submitted that challan stands presented, charges are yet to be framed and total 17 prosecution witnesses are nominated in the case.

Without commenting anything further on merits of the case, considering the aforesaid submissions made by learned counsel for the parties, this petition is allowed and the petitioner is directed to be released on regular bail subject to furnishing his bail/surety bond to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate....”

It is also submitted by counsel for the petitioner that the petitioner is not involved in any other case and conclusion of the trial will take some time.

Counsel for the State has filed the Custody Certificate today in the Court and has not disputed the factual position but opposed

the prayer for bail.

Without commenting anything on merits of the case, considering the fact that the petitioner is not involved in any other case; the co-accused of the petitioner has already been granted the concession of regular bail and it will take some time in conclusion of the trial, 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/Illaqa Magistrate/Duty 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

13.02.2019
yakub

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