

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

**Criminal Misc. No. M-16875 of 2018
Date of decision: 14.01.2019**

Gurnam Singh @ Gama

..Petitioner

Versus

State of Punjab

..Respondent

CORAM: HON'BLE MRS. JUSTICE DAYA CHAUDHARY

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

Mr. Sarabjit Singh Cheema, AAG, Punjab
for the respondent -State.

Daya Chaudhary, J. (Oral)

This is the second petition filed by petitioner-Gurnam Singh @ Gama under Section 439 Cr.P.C. for grant of regular bail to him in case FIR No.14 dated 03.02.2017 registered under Sections 15/29/61/85 of the Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station Khamano, District Fatehgarh Sahib.

Learned counsel for the petitioner submits that the petitioner was not present at the spot and was not arrested. Even the petitioner has not been shown to have run away from the place of occurrence. No connecting evidence has been collected by the Investigating Agency. The petitioner was undergoing custody in some other case of NDPS Act. Learned counsel further submits that the charges have been framed but no witness has been examined so far. All the witnesses are official witnesses and there is no possibility that the petitioner may influence the witnesses or tamper with the

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evidence. Learned counsel also submits that at the time of dismissal of earlier petition, a wrong statement was made by learned State counsel that out of 17 witnesses, 5 have been examined whereas at that time, even charges were not framed.

Learned State counsel has not disputed the submissions made by learned counsel for the petitioner to the extent that at the time of dismissal of earlier petition, charges were not framed and the petitioner was not arrested at the place of occurrence. He has opposed the bail on the ground that three more cases of NDPS Act are pending against the petitioner whereas learned counsel for the petitioner submits that the petitioner is on bail in two cases as the quantity was small whereas he is undergoing sentence in one case after conviction. It has also been argued by learned counsel for the petitioner that because of not having bail in this case, the petitioner is not entitled for benefit of parole and it would be a symbolic release as the petitioner is undergoing sentence in other case and he would be released after suspension of sentence in other case.

Heard arguments of learned counsel for the petitioner as well as learned State counsel and have also perused the contents of the FIR and other documents available on the file.

In view of the submissions made by learned counsel for the petitioner that the petitioner was not present at the place of occurrence and was not arrested; he is on bail in two cases except the present one; it would be a symbolic release as the petitioner is undergoing sentence in other case and he would be released after suspension of his sentence in that case; all witnesses are official witnesses and there is no possibility that the petitioner

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may influence the witnesses; the trial may take time to conclude, the present petition is allowed and the petitioner (Gurnam Singh @ Gama) is directed to be released on regular bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court.

However, it is made clear that at present, it would be a symbolic order of grant of regular bail and in case the petitioner is released after suspension of sentence in other case, he be released in this case also. It is also made clear that in case, the petitioner is found to be involved in any other case of NDPS, the State is at liberty to move an application for cancellation of bail.

14.01.2019
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(DAYA CHAUDHARY)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	No