

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

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**Crl.Misc. No.M-17465 of 2018
Decided on: 20.3.2019**

Hardev Singh alias Dev

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present: Mr. B.S. Bhalla, Advocate, for the petitioner

Mr. Amit Mehta, Senior DAG, Punjab

Daya Chaudhary, J.(Oral)

Present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No.96 dated 3.6.2017, under Sections 22 and 25 of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act'), registered at Police Station City South, Moga.

Learned counsel for the petitioner submits that the petitioner has falsely been implicated in the case whereas he is not involved. As per allegations in the FIR, the petitioner was apprehended near the Band Railway Crossing at Moga, when he was travelling in a Verna car bearing registration No. PB-10-FZ-1316 and DSP City was called at the spot and intoxicant powder was recovered from the car. Learned counsel also submits that on the alleged date i.e. 3.6.2017, the petitioner was in Gian Chand Memorial Maternity and Nursing Home, Moga from 7:30 a.m. till 5:00 p.m. as wife of the petitioner was admitted in the said hospital for delivery and she gave birth to a baby girl at about 1:45 p.m. Learned counsel also submits that consent form was also

signed by the petitioner as well as by his wife Ravjeet Kaur. Learned counsel further submits that it is clear from CCTV coverage, which is annexed as Annexure P-1 (Colly), that the petitioner was earlier harassed by the police officials on 15.4.2017 at 6:20-7:00 p.m. and at different times on other dates also. The bail petition filed by the petitioner before the trial Court was dismissed on the ground that a number of cases are there against the petitioner. Learned counsel submits that 7 cases are there against the petitioner; out of which in 2 cases, he has been acquitted; in two cases, FIRs have been quashed and in 3 cases, he is undergoing trial but he is on bail. Now the petitioner has recently been acquitted of the charges in one case out of 3 cases, which is under the NDPS Act. Presently, no other case is pending against the petitioner. Learned counsel also submits that the petitioner is in custody since 3.6.2017 and there is no possibility that the petitioner may tamper with the evidence as all the witnesses are police officials. Trial may take some time to conclude as out of total 14 witnesses, 9 witnesses have been examined and no useful purpose would be served by keeping the petitioner behind the bars.

Learned State counsel has not disputed custody of the petitioner as well as status of the trial but opposed bail on the ground that the petitioner is a habitual offender.

Heard learned counsel for the parties and have also perused the contents of FIR and other documents on the file.

The documents placed on record by learned counsel for the petitioner is a matter of evidence, which might be tested or will be tested after recording statements of the witnesses and by considering that the petitioner is

in custody since 3.6.2017 and also the fact that the trial may take some time to conclude as prosecution witnesses still remain to be examined; no other case is pending against the petitioner; either the petitioner has been acquitted or the trial is going in the cases pending against but he is on bail in those cases. Accordingly, the present petition is allowed. Petitioner is directed to be released on bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

It is made clear that if the petitioner is found involved in any case of NDPS Act, the State is at liberty to move an application for cancellation of his bail.

(DAYA CHAUDHARY)
JUDGE

20.3.2018

Ashwani

Speaking/Non-speaking : Yes/No
Reportable/Reasoned : Yes/No