

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

**CRM-M No.26642 of 2018
Decided on: 13.02.2019**

Rattan Singh @ Manga

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Rishu Mahajan, Advocate
for the petitioner.

Mr. Sidakmeet Singh Sandhu, 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.156 dated 07.11.2017, for offence punishable under Sections 21/22/61/85 of the Narcotic Drug and Psychotropic Substances Act (in short 'the NDPS Act'), registered at Police Station Raja Sansi, District Amritsar.

Counsel for the petitioner has submitted that as per the allegations in the FIR, 1000 intoxicant tablets contained in Parcel No.2 were found to be a narcotic substance. It is further argued that it will be a debatable issue to be decided during the course of trial whether the provisions of Section 50 of the NDPS Act will apply in the case or not as the case of the prosecution is that it was a case of chance recovery.

Counsel for the petitioner has further submitted that the petitioner is in custody since 07.11.2017 and despite the fact that

challan was presented in April, 2018 and charges were framed on 05.07.2018, till date no prosecution witness has been examined and the petitioner is in custody for the last about 01 year and 03 months. It is also submitted that the petitioner is not involved in any other case.

Counsel for the State has filed the affidavit of the Investigating Officer today in the Court and as per the affidavit, the petitioner is involved in 02 more FIRs i.e. FIR No.142 dated 30.10.2017 under Section 21, 22, 29/61/85 of the NDPS Act at Police Station Rajasansi, Amritsar Rural and FIR No.155 dated 06.11.2017 under Section 21, 22, 27/61/85 of the NDPS Act at Police Station Rajasansi, Amritsar Rural.

In reply, counsel for the petitioner has submitted that in both the aforesaid FIRs, the petitioner was not arrested at the spot and he was involved on the basis of the disclosure statement made by co-accused and he is on bail in the said cases.

A photocopy of the orders dated 09.10.2018 and dated 19.07.2018 granting bail to the petitioner in the aforesaid cases/FIRs is taken on record as Mark 'X'.

Needless to say that all the FIRs pertains to the same Police Station i.e. Police Station Raja Sansi, Amritsar Rural and after the petitioner was arrested in the present FIR on 07.11.2017, he was involved in the aforesaid FIRs on the basis of the disclosure statement, which were registered on 30.10.2017 and 06.11.2017.

Without commenting anything on merits of the case, considering the fact that the petitioner is in judicial custody since 07.11.2017 and he is on bail in the aforementioned two FIRs and also in

view of the fact that no prosecution witness has been examined so far and conclusion of the trial is likely to take some time, 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

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