

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

**CRM-M-14370 of 2019
Date of Decision: July 11, 2019**

Joginder Pal @ Deepak

....Petitioner

VERSUS

State of Punjab

....Respondent

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Jasraj Singh, Advocate
for the petitioner.

Mr. Avtar Singh Sidhu, Addl. A.G., Punjab.

SURINDER GUPTA, J.(Oral)

The present petition has been filed under Section 439 Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 155 dated 06.10.2015 registered for the offences punishable under Sections 22 and 29 of Narcotic Drugs and Psychotropic Substances Act (for short, “NDPS” Act) at Police Station Mukerian, District Hoshiarpur.

Heard.

As per case of the prosecution, petitioner along with his co-accused Anil Kumar Dadwal were coming on a motor cycle carrying contraband and were signalled to stop. The petitioner, who was a pillion rider jumped from the motor cycle and fled away from the spot. He was called by Head constable Ravinder Singh but could not be nabbed. From the bag carried on motor cycle 20 bottles of Corex weighing 100 grams each were recovered. The sample of these bottles were found to be that of

codeine.

Learned counsel for the petitioner submits that co-accused Anil Kumar Dadwal has since been allowed to be released on bail by the police as per the provisions of Section 167(2) Cr.P.C. The petitioner is in custody since 22.07.2018 when he was arrested in another case. No recovery was effected from the petitioner. After presentation of challan, prosecution has been able to examine only one witness.

Learned State counsel on instructions from ASI Dilbag Singh submits that the petitioner is involved in two other cases under the NDPS Act. The recovery effected in this case is of commercial quantity of narcotic. Co-accused was given the benefit of bail under Section 167(2) Cr.P.C. The petitioner was allowed interim bail in this case, which was cancelled and vide order dated 07.12.2016 passed in CRM No. M-7812 of 2016, he was permitted to apply for regular bail within one month but he had not appeared before trial Court and was declared proclaimed offender. Due to his conduct he is not entitled for regular bail.

Admittedly, the recovery of contraband was effected from the bag carried on the motor cycle. The co-accused, who was driving the motor cycle has been allowed regular bail under Section 167(2) Cr.P.C.. The petitioner is also in custody for the last about one year. Through, he has been named in the FIR as a person, who ran away from the spot but his identity is still a subject matter to be proved during trial.

Keeping in view the fact that the co-accused was released on regular bail under Section 167(2) Cr.P.C. and that conclusion of trial will take considerably long time, the present petition is allowed. Petitioner-

Joginder Pal @ Deepak is ordered to be released on regular bail on furnishing bail bond and surety bond to the satisfaction of concerned trial Court/Chief Judicial Magistrate/Duty Magistrate, subject to following terms:-

- (a) The petitioner shall comply with the conditions mentioned in Section 437(3) Cr.P.C.
- (b) In the event of his absence on any date of hearing, the benefit of bail allowed to the petitioner shall stand withdrawn. The trial Court shall be competent to cancel his bail bond and surety bond and proceed to procure his presence in accordance with law. In that eventuality the petitioner shall have to apply for bail afresh.
- (c) He shall not leave the country without the previous permission of the Court.

July 11, 2019

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**(SURINDER GUPTA)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No