

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

CRM-M No. 15266 of 2019

Date of decision : 16.05.2019

Gurvinder Singh @ Ginder

.....Petitioner

Versus

State of Haryana

...Respondent

CORAM : HON'BLE MRS. JUSTICE DAYA CHAUDHARY

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

Mr. Rajesh K. Sheoran, Addl. A. G., Haryana.

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DAYA CHAUDHARY, J. (Oral)

This is the third petition filed by petitioner Gurvinder Singh alias Ginder under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to him in case FIR No.109 dated 05.11.2017 under Section 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short - “NDPS Act”), registered at Police Station – Jhansa, Distt. Kurukshetra, during pendency of the trial.

Learned counsel for the petitioner submits that the petitioner has falsely been implicated in the case, whereas he was not involved. The alleged recovery effected from the possession of the petitioner is only 9.19 grams heroin, which is non-commercial quantity. He is in custody for the last more than 10 months. Learned counsel also submits that in two more cases of NDPS Act, he has undergone the sentence. All the prosecution witnesses are official and there is no possibility that the petitioner may influence them or tamper with the evidence. No purpose would be served by keeping him in custody.

Learned State counsel has not disputed the custody period as well as recovery part. However, he has opposed the bail on the ground that the petitioner is a habitual offender as in two other cases under NDPS Act he is on bail and in two more cases under NDPS Act he has been convicted.

Heard arguments of learned counsel for the parties and have also gone through the contents of the FIR and other documents available on record.

By considering the custody period of more than 10 months and also keeping in view the fact that recovery is non-commercial; in other two cases under NDPS Act, he has already undergone the sentence and in two more cases, as submitted by learned State counsel, he is on regular bail and also the fact that all the prosecution witnesses are official and there is no possibility that the petitioner may influence them or tamper with the evidence, no purpose would be served by keeping the petitioner in custody. Accordingly, the present petition is allowed and the petitioner is directed to be released on regular bail on furnishing adequate bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate.

However, it is made clear that in case the petitioner is found to be involved in any other case of NDPS Act, the State is at liberty to move application for cancellation of bail.

16.05.2019

sunil yadav

**(DAYA CHAUDHARY)
JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No