

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

**CRM-M No.36210 of 2018
Decided on: 14.03.2019**

Paramjit Singh @ Pamma

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

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

Mr. Joginder Pal Ratra, DAG, 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.94 dated 16.10.2017, for offence punishable under Sections 22/29/61/85 of the Narcotic Drug and Psychotropic Substances Act, 1985 (in short 'the NDPS Act'), registered at Police Station Fatehgarh Panjttor, District Moga.

As per the allegations in the FIR, the police party, which was on patrol duty saw a person carrying a black envelope in his right hand and on seeing the police party, he became perplexed and on suspicion, he was apprehended by the police party and after giving notice under Section 50 of the NDPS Act to him, he repose confidence in the Investigating Officer and gave his consent to be searched by the Investigating Officer and on search, 200 gms of intoxicating powder was found.

Counsel for the petitioner has submitted that the petitioner is in judicial custody since 16.10.2017 and has undergone the judicial custody of more than 1 year and 03 months and in the intervening period, awaiting the report of the FSL, he was granted interim bail by the trial Court and thereafter, he has surrendered before the trial Court and has not misused the concession of bail.

Counsel for the petitioner has referred to the FSL report wherein the quantity of ingredient in the parcel was 0.17% and has argued that it will be a debatable issue to be decided during the course of trial whether the recovery of the contraband falls under the commercial quantity or not. It is also submitted that the prosecution evidence is yet to start before the trial Court.

In reply counsel for the State has not disputed the factual position but opposed the prayer for bail on the ground that the petitioner is involved in two more FIRs. It is also submitted that out of 11 prosecution witnesses, none has been examined before the trial Court till date.

Without commenting anything on merits of the case, considering the fact that the petitioner has undergone 01 year and 03 months of judicial custody; the prosecution evidence is yet to start; the petitioner has not misused the concession of interim bail while awaiting the report from the FSL; he himself surrendered before the trial Court 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/Illaq 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

14.03.2019
yakub

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