

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

**CRM-M-18723-2019
Date of decision: 02.08.2019**

Kashmir Singh

...Petitioner

Versus

Narcotics Control Bureau, Amritsar

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- None.

ARVIND SINGH SANGWAN, J. (Oral)

This is the second petition that has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in Criminal case bearing No. 10/2017 dated 11.02.2017, registered under Sections 18, 21, 23, 29, 60 of the Narcotic Drugs & Psychotropic Substances Act, 1985.

Since the Bar has abstained from work today, there is no representation on behalf of the parties.

A perusal of the complaint filed by the Intelligence Officer, Narcotics Control Bureau, Amritsar before the Special Court, Ferozepur reveals that initially a report was given by BSF to the Bureau that two persons, namely Karnail Singh s/o Kishan Singh r/o Village Gandu Kilcha and Kala Singh s/o Kashmir Singh r/o Village Chak Dona Rahime, had gone ahead of BSF fence for the purpose of farming with a bull and a bullock cart and returned from the same gate. On return, during search of their belongings and the bullock cart, it was found that left tyre of the bullock cart is puncture and is having less air pressure. On suspicion, the tyre was opened in the presence of Karnail Singh and Kala Singh, five packets of contraband were recovered from the bullock cart of Karnail Singh.

It is further stated in the complaint that thereafter, search of the houses of the aforesaid accused persons was conducted and certain articles were recovered. Later on, Karnail Singh was arrested and he disclosed the name of co-accused Kala Singh as well as petitioner Kashmir Singh s/o Fauja Singh r/o Village Rohela, pursuant to which, the petitioner was arrested, however, no recovery was effected from him.

A perusal of the file further shows that co-accused Kala Singh has already been granted concession of anticipatory bail by this Court, vide order dated 22.02.2019 passed in CRM-M-40179-2017.

The custody certificate dated 23.05.2019, filed by the respondent-Bureau, shows that the petitioner is in judicial custody for the last 01 year and 21 days i.e. as on today 01 year and about 03 months. The said custody certificate further shows that the petitioner is not involved in any other case under the NDPS Act.

Considering the fact that the recovery was not effected from the petitioner and was effected from aforesaid accused persons Karnail Singh and Kala Singh, it will be a debatable issue whether the petitioner was found in conscious possession of the contraband.

Therefore, without commenting anything on the merits of the case, the instant petition is allowed. The petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

02.08.2019

Waseem Ansari

**(ARVIND SINGH SANGWAN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No