

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

**CRM-M No. 20282 of 2019
Date of Decision:-21.11.2019**

PARMINDER SINGH ALIAS PARWINDER SINGH

.....Petitioner

V/S

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. G.S. Sandhu, Advocate
for the petitioner.

Mr. Arun Kaundal, D.A.G., Punjab

ARUN KUMAR TYAGI, J. (ORAL)

The present **2nd** petition has been filed under Section 439 of Code of Criminal Procedure for grant of regular bail in case FIR No.103 dated 01.06.2018 under Section 22 of the NDPS, 1985 registered at Police Station Lambi, District Sri Muktsar Sahib.

His **1st** application for grant of regular bail was dismissed as withdrawn by this Court vide order dated 26.09.2018.

The petitioner and his co-accused Mandeep Singh and Gurcharan Singh have been charge-sheeted by SHO, Police Station Lambi, District Sri Muktsar Sahib for alleged commission of offence punishable under Section 22 of the NDPS Act on the allegations of recovery of 25 bottles containing intoxicant ONEREX and 250 tablets containing Carisoprodol Carisoma from a plastic bag carried by co-accused Gurcharan Singh who was sitting in the middle of motorcycle

driven by Mandeep Singh while the petitioner was the third pillion rider

KAVNEET SINGH
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authenticity of this document

sitting after co-accused Gurcharan Singh.

Learned Counsel for the petitioner has submitted that the petitioner has been falsely implicated. No recovery was effected from his possession. The petitioner cannot be said to be in conscious possession of the contraband allegedly recovered from possession of co-accused Gurcharan Singh. No independent witness was joined during investigation and the mandatory provisions of the NDPS Act were not complied with. The petitioner is in custody since 01.06.2018. The petitioner is not involved in any other case under the NDPS act. Therefore, the petitioner may be ordered to be released on regular bail.

On the other hand, learned State Counsel has submitted that the petitioner is accused of having committed serious offences by keeping commercial quantity of the contraband in his conscious possession alongwith his co-accused and the petitioner does not deserve the concession of regular bail. However, learned State Counsel has conceded that the petitioner is not involved in any other case under the NDPS Act.

Keeping in view the facts and circumstances of the case, involvement of question as to whether the petitioner can be said to be in conscious possession of the contraband recovered from his co-accused Gurcharan Singh and the fact that he is not involved in any other case under the NDPS Act which by implication satisfies both the conditions of Section 37 (1) (b) of the NDPS Act and the period of his custody but without expressing any opinion on merits of the case, I am of the considered view that the petitioner deserves the concession of regular bail. Therefore, the petition is allowed and the petitioner is ordered to

be released on bail on furnishing of bail bonds to the satisfaction of Trial Court. However, in case of commission of any offence under the provisions of NDPS Act by the petitioner in future, his bail in the present case shall also be liable to be cancelled on filing of application in this regard.

21.11.2019
Kavneet Singh

(ARUN KUMAR TYAGI)
JUDGE

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