

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

CRM-M No. 44016 of 2018

Date of decision : 01.03.2019

Satnam Singh alias Satta

.....Petitioner

Versus

State of Punjab

...Respondent

CORAM : HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present : Mr. Ashish Aggarwal, Advocate for the petitioner.

Ms. Samina Dhir, DAG, Punjab.

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DAYA CHAUDHARY, J. (Oral)

This petition has been filed by petitioner Satnam Singh alias Satta under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to him in case FIR No. 26 dated 23.03.2015 under Section 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short - 'NDPS Act'), registered at Police Station – Sarai Amanat Khan, Distt. Amritsar City/Tarn Taran, during pendency of the trial.

Learned counsel for the petitioner submits that the petitioner has falsely been implicated in the case along with the co-accused only on the basis of suspicion. As per the allegations in the FIR, the alleged narcotic substance was recovered from the open land, which does not belong to the petitioner, rather it belongs to co-accused Harninder Singh as he is having agricultural land adjoining to Indo-Pak border line. Initially the petitioner was declared innocent by the Investigating Officer but

subsequently, he has been implicated without mentioning any reason. Learned counsel also submits that the petitioner is not having any criminal background and there is no other case of similar nature against him. Out of total 13 prosecution witnesses, only one witness has been examined and the trial may take time to conclude. All the prosecution witnesses are official and there is no possibility that the petitioner may influence them or tamper with the evidence. At the end, learned counsel submits that the mandatory provisions of the NDPS Act have not been followed.

Learned State counsel has opposed the submissions made by learned counsel for the petitioner on the ground of seriousness of offence. She submits that the FIR was registered on the basis of secret information and the recovery is commercial. She also submits that earlier the inquiry was conducted, wherein the petitioner was found to be innocent, but the same was not approved by the higher authority. Petitioner was seen while going towards the fields in the intervening night.

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

Admittedly, the petitioner was not arrested from the place of occurrence and the alleged recovery was effected from the open field, which even does not belong to him. It is also not denied by learned State counsel that secret information was not reduced into writing. Petitioner is having no criminal background and there is no other case of similar nature against him. In case there was any doubt, as he was alleged to be seen while going

towards the fields in the intervening night, he should have been arrested at that time only, but even that fact has not been brought to the notice of any authority. 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 subject to furnishing adequate bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate.

01.03.2019

sunil yadav

**(DAYA CHAUDHARY)
JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No