

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

CRM-M No. 45518 of 2018

Date of decision : 07.01.2019

Balwinder Singh @ Pinna

.....Petitioner

Versus

State of Haryana

...Respondent

CORAM : HON'BLE MRS. JUSTICE DAYA CHAUDHARY

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

Mr. R. S. Doon, AAG, Haryana.

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DAYA CHAUDHARY, J. (Oral)

Present petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in case FIR No.21 dated 09.03.2018 under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short - 'NDPS Act') registered at Police Station – GRP Hisar, Distt. Hisar, during pendency of the trial.

Learned counsel for the petitioner submits that the petitioner has falsely been implicated in the case and the alleged recovery is 11 kilograms poppy husk in two bags, which has been alleged to be recovered from the hands of the petitioner. Six bags were found lying near the petitioner, which belong to co-accused Babbu Singh, who has been released on anticipatory bail vide order dated 19.04.2018 passed in CRM-M No.15973 of 2018. Learned counsel further submits that the earlier petition

was dismissed as supplementary challan was not presented and now the challan has been presented against the petitioner as well as co-accused Babbu. Petitioner is in custody since 09.03.2018. One more case under NDPS Act is there against the petitioner, wherein he is on bail. 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.

Learned State counsel has not disputed the period of custody undergone by the petitioner and grant of anticipatory bail to co-accused Babbu. However, he opposes the submissions made by learned counsel for the petitioner on the ground of contradiction as different stand has been taken while releasing co-accused on anticipatory bail and in the present petition before this Court. He also submits that provisions of Section 35 of the NDPS Act are applicable and the petitioner does not deserve to be released on regular bail as one more case of similar nature is also there against him.

Heard arguments of learned counsel for the parties and have also perused the contents of FIR and other documents available on file including the order passed in case of co-accused Babbu, who has already been released on anticipatory bail.

By considering the submissions made by learned counsel for the petitioner to the effect that challan has been presented against the petitioner as well as co-accused Babbu; the alleged recovery of two bags containing 11 kilograms poppy husk have been shown to be effected from

the petitioner and the version given by him has been believed by the investigating agency; co-accused Babbu has been released on anticipatory bail; petitioner is in custody since 09.03.2018 and he is on bail in another case under NDPS Act, no purpose would be served by keeping him in custody. Accordingly, this petition is allowed and the petitioner is directed to be released on regular bail subject to furnishing bail/surety bonds to the satisfaction of the trial Court/CJM, Hisar.

07.01.2019

sunil yadav

**(DAYA CHAUDHARY)
JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No