

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

CRM-M No. 49837 of 2018

Date of decision : 25.01.2019

Jatinder Singh alias Soni

.....Petitioner

Versus

State of Punjab

...Respondent

CORAM : HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present : Mr. Vipul Jindal, Advocate for the petitioner.

Ms. Rashmi Attri, AAG, Punjab.

* * *

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. 09 dated 02.09.2016 registered under Sections 21, 25, 27A, 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short - 'NDPS Act') and Section 42 of the Prisons Act, registered at Police Station – State Special Operation Cell, Amritsar, during pendency of the trial.

Learned counsel for the petitioner submits that there is non-compliance of mandatory provisions of Sections 42 and 50 of the NDPS Act. The alleged recovery of currency notes of ₹11,50,000/- has wrongly been planted upon him. Earlier also, the conduct of the Investigating Officer was doubted in judgment dated 19.08.2015 passed by this Court in

Criminal Appeal No.S-3308-SB of 2014 in case titled Harpreet Singh Vs. State of Punjab. Learned counsel also submits that at present, there is no case pending against the petitioner as in one case of NDPS Act, he has undergone the sentence which was only for two months. He is in custody for the last more than two years and four months. Trial may take some time to conclude and no purpose would be served by keeping him in custody.

Learned State counsel has not disputed the period of custody as well as stage of trial as out of total 14 prosecution witnesses, 6 witnesses have been examined. However, she has opposed the submissions made by learned counsel for the petitioner and submits that compliance or non-compliance of mandatory provisions of the NDPS Act is matter of evidence and it will be seen at the time of final decision after appreciation of the evidence.

Heard arguments of learned counsel for the petitioner as well as learned State counsel and have perused the contents of the FIR and other documents on file.

Without commenting anything on the merits of the case and keeping in view the custody of more than two years and four months and also the fact that all the prosecution witnesses are official and there is no possibility that the petitioner may influence them or tamper with the evidence; out of total 14 prosecution witnesses, 6 witnesses have been examined and still trial may take some time to conclude, no purpose would be served by keeping the petitioner in custody. Accordingly, this 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.

25.01.2019

sunil yadav

**(DAYA CHAUDHARY)
JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No