

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl. Misc. No. M-50382 of 2018

DATE OF DECISION:13.02.2019

Bhag Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

BEFORE:- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present:- Mr. AS Brar, Advocate
for the petitioner.

Ms. Samina Dhir, DAG, Punjab.

DAYA CHAUDHARY, J.

The present petition under Section 439 Cr.P.C. has been filed by petitioner-Bhag Singh for grant of regular bail to him in case FIR No. 198 dated 23.9.2017 registered under Section 15 (Section 29 added lateron) of the NDPS Act at Police Station Baghapurana, District Moga.

Learned counsel for the petitioner contends that the petitioner was not named in the FIR. As per allegations in the FIR, four persons were named in the FIR, out of which, Shabeg Singh and Malkiat Singh were apprehended from the place of occurrence and recovery was also effected from them, whereas, Laddu and Sukhdev Singh managed to escape. Learned counsel further contends that the petitioner is not the owner of the vehicle and was not present at the place of occurrence. The petitioner has falsely been implicated in this case on the basis of confessional statements made by co-accused Shabeg Singh and Malkiat Singh. Learned counsel also contends that co- accused of the petitioner, namely, Amarjit Singh has

approached this Court by way of filing Crl. Misc. No. M-26340 of 2018 and he was granted interim bail vide order dated 25.8.2018, which was made absolute subsequently. The petitioner is in custody since 4.10.2017.

Learned counsel for respondent-State has not disputed the custody period but opposed grant of bail on the ground that one more case of NDPS Act is there against the petitioner and the petitioner is not on bail in that case.

On the other hand, learned counsel for the petitioner contends the petitioner has been implicated in another case subsequently i.e. after four days of registration of the present FIR. Learned counsel further contends that in that case also the petitioner was not arrested from the place of occurrence.

By considering the custody of the petitioner from 4.10.2017 and also the facts that co-accused of the petitioner, namely, Amarjit Singh has been released on anticipatory bail; neither the petitioner was named in the FIR nor any specific role has been attributed to him; he has been implicated in this case only on the basis of confessional statement made by co-accused Shabeg Singh and Malkiat Singh, which have no evidentiary value in the eyes of law and recovery was effected from co-accused, the present petition is allowed. Petitioner-Bhag Singh is directed to be released on regular bail subject to his furnishing bail/surety bonds to the satisfaction of trial Court/Duty Magistrate.

February 13, 2019
pooja

(DAYA CHAUDHARY)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No

