

Crl. Misc. No. M-51985 of 2018

(1)

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

Crl. Misc. No. M-51985 of 2018

DATE OF DECISION:07.03.2019

Kulwant Singh @ Gora

.....Petitioner

Versus

State of Punjab

.....Respondent

**BEFORE:- HON'BLE MRS. JUSTICE DAYA CHAUDHARY**

Present:- Mr. PS Sekhon, Advocate  
for the petitioner.

Ms. Samina Dhir, DAG, Punjab.

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**DAYA CHAUDHARY, J.**

The present petition under Section 439 Cr.P.C. for grant of regular bail has been filed by petitioner-Kulwant Singh @ Gora in case FIR No. 98 dated 17.8.2018 registered under Section 15 of NDPS Act at Police Station Cheema District Sangrur.

Learned counsel for the petitioner contends that the present FIR was registered on the basis of secret information. As per version of the prosecution, secret information was received to the effect that the petitioner and other co-accused, namely, Rajdeep Singh @ Bagga and DC were indulging in selling the poppy husk. Two persons, namely, Rajdeep Singh @ Bagga and Kulwant Singh i.e. the present petitioner were apprehended and 20 kgs of poppy husk was recovered from their possession. Learned counsel further contends that on the basis of disclosure statement, 50 kgs of

more poppy husk was recovered from them allegedly belonged to co-accused-D.C. Learned counsel also submits that at the time of alleged subsequent recovery, no independent witness was joined and there is non-compliance of mandatory provisions of Section 50 of the NDPS Act. The petitioner is in custody since 17.8.2018 and no other case is there against him. It is also the argument of learned counsel that challan has already been presented, nothing is to be recovered from the petitioner and he is ready to abide by all the terms and conditions to be imposed by this Court or by the trial Court.

Learned counsel for respondent-State has not disputed the custody period and also the fact that no other case is there against the petitioner.

Heard the arguments advanced by learned counsel for the parties and have also gone through the contents of the FIR and other documents available on the file.

Admittedly, initially on the basis of secret information 20 kgs of poppy husk was recovered from the petitioner and co-accused Rajdeep Singh @ Bagga. Subsequently on the basis of disclosure statement 50 kgs more poppy husk was recovered in the evening on the same day but no independent witness was joined at that time. It can be verified during the trial on having evidence as to how the petitioner has been connected with subsequent recovery

By considering the custody of the petitioner since 17.8.2018 and also the facts that no independent witness was joined at the time of subsequent recovery; all witnesses are official and there is no possibility that the petitioner may influence them or tamper with the evidence and no

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other case is there against the petitioner, the present petition is allowed.

Petitioner-Kulwant Singh @ Gora is directed to be released on regular bail subject to his furnishing bail/surety bonds to the satisfaction of trial Court/Duty Magistrate.

March 07, 2019pooja

(DAYA CHAUDHARY)  
JUDGE

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|---------------------------|-----|
| Whether speaking/reasoned | Yes |
| Whether reportable        | No  |