

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

CRM-M No. 52563 of 2018

Date of Decision: 03.04.2019

Harpreet Singh Petitioner

Versus

State of Punjab Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Digvijay Nagpal, Advocate for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab

MAHABIR SINGH SINDHU, J. (Oral)

The present petition has been filed under Section 439 of the Code of Criminal Procedure (for short 'Cr.P.C') for grant of bail pending trial to the petitioner in case FIR No.284 dated 06.10.2017, under Sections 18/61/85 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act'), registered at Police Station Tripuri, District Patiala.

As per the FIR, recovery of 30 gms of opium was effected from three persons i.e Baldev Singh, Harpreet Singh (the present petitioner) and Kulwinder Singh. After an inquiry, it was found that all the three prisoners were confined in barrack No.49 in different cases but on 09.10.2017, when ASI Jarnail Singh questioned them, then, Baldev Singh admitted that he had gone for a morning walk on 29.09.2017 in the ground, where he found the opium wrapped in polythene paper, which was lying on the ground.

It is contended by learned Counsel for the petitioner that alleged

contraband of 30 gms of opium was recovered from the co-accused Baldev Singh and not from the petitioner in jail premises. Also contends that the petitioner is in custody in this case for the last five months and he has been implicated only due to the reason that he was confined in the same barrack along with co-accused Baldev Singh.

In compliance of previous order of this Court, Status report by way of affidavit of Dalbir Singh Grewal, PPS, Deputy Superintendent of Police, City-2, Patiala has been filed on behalf of State along with the custody certificate of the petitioner. Same are taken on record.

Learned State Counsel has also duly acknowledged the factual position, on instructions from ASI Daljit Singh, but opposed the bail application on the ground that the petitioner is a previous convict and again he has indulged in an offence under Section 18 of the NDPS Act.

Heard both sides and perused the record.

Undisputedly, in view of the inquiry in the matter, contraband was recovered from co-accused Baldev Singh and not from the petitioner. No doubt he is a previous convict, but in this case merely that he was lodged in the same very barrack along with the co-accused, he is facing incarceration for the last five months, therefore, this Court deem it appropriate if the concession of bail is granted to the petitioner. Consequently, this petition is allowed and petitioner-Harpreet Singh is ordered to be released on bail, in this case, on his furnishing adequate bail bonds and surety bonds to the satisfaction of learned trial Court.

However, it is clarified that if there is any recurrence on the part of the petitioner, the prosecution would be at liberty to move an appropriate

application for recalling of this order.

The above observations may not be construed as an expression
of opinion on merits of case.

03.04.2019
mamta

(MAHABIR SINGH SINDHU)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>