

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

**Criminal Misc. No. M-53707 of 2018 (O&M)
Date of decision: 13.03.2019**

Kulwinder Singh @ Kindi

..Petitioner

Versus

State of Punjab

..Respondent

CORAM: HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present: Dr. Rau P.S. Girwar, Advocate
for the petitioner.

Mr. Amit Mehta, Sr. DAG, Punjab
for the respondent-State.

Daya Chaudhary, J. (Oral)

The present petition has been filed by the petitioner under Section 439 Cr.P.C. for grant of regular bail to him in case FIR No.035 dated 15.04.2017 registered under Sections 21/25/27A/61/85 of the Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station Kotfatta, District Bathinda.

Learned counsel for the petitioner submits that the first bail petition filed by the petitioner was dismissed as withdrawn as FSL report was not received and second petition was also dismissed as withdrawn as charges were not framed. The present one is the third petition, which has been filed under the changed circumstances as not only the custody is approximately two years but no witness has been examined so far. Learned counsel further submits that no other case under the NDPS Act is pending against the petitioner and the bail application filed by the petitioner has been dismissed by the trial Court on the ground that he is a member of gang

whereas neither any connecting evidence is there nor any involvement of

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the petitioner is proved. Learned counsel also submits that there is non-compliance of mandatory provisions of NDPS Act.

Learned State counsel has not disputed the custody period as well as stage of trial that no witness has been examined so far.

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

By considering the submissions made by learned counsel for the petitioner that the petitioner is in custody for the last approximately two years; even a single witness has not been examined so far; no other case under the NDPS Act is pending against the petitioner; all the witnesses are official and there is no possibility that the petitioner may influence the witnesses or tamper with the evidence; trial may take time to conclude and no purpose would be served by keeping him in custody, the present petition is allowed and the petitioner (Kulwinder Singh @ Kindi) is directed to be released on regular bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate.

However, it is made clear that in case, the petitioner is found to be involved in any other case of similar nature after releasing on bail, the State is at liberty to move an application for cancellation of bail.

13.03.2019
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(DAYA CHAUDHARY)
JUDGE

Whether speaking/reasoned Yes

Whether Reportable Yes