

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

CRM-M-30502-2019
Date of decision: 05.11.2019

Jagjit Singh @ Jaggi

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Tarun Jhatta, Advocate
for the petitioner.

Mr. Jagmohan Ghuman, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

This petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 101 dated 24.05.2018, registered under Section 22 of the NDPS Act, 1985 and Sections 379, 411 of the IPC at Police Station City Moga, District Moga.

Learned counsel for the petitioner submits that the petitioner is in judicial custody since 24.05.2018 and he is not involved in any other case.

Learned counsel for the petitioner further submits that as per the allegations in the FIR, the petitioner was a pillion rider on a motorcycle being driven by co-accused Gurpreet Singh @ Gora and it is the case of the prosecution that when both of the accused were apprehended, a polythene bag, lying in the middle, was recovered containing 270 grams of intoxicant powder.

Learned counsel for the petitioner further submits that Investigating Officer/ASI Balwinder Singh gave a notice to the accused

persons under Section 50 of the NDPS Act, on which, both the accused, petitioner and co-accused Gurpreet Singh, consented for being searched by the same Investigating Officer and thereafter, ASI Balwinder Singh conducted the search and personal search of them.

Learned counsel for the petitioner has, thus, argued that the Investigating Officer and the complainant are the same person and it will be a debatable issue whether the provisions of Section 50 of the NDPS Act were complied with or not when the search/personal search of the accused persons was conducted.

Learned State counsel, on instructions from ASI Kulwant Singh, submits that out of total 22 prosecution witnesses, 05 witnesses have been examined so far and could not dispute the fact that the petitioner is not involved in any other case and he is in judicial custody since 24.05.2018.

I have heard learned counsel for the parties.

Without commenting upon the merits of the case, considering the aforesaid submissions of learned counsel for the parties and also in view of the fact that petitioner is in judicial custody since 24.05.2018 and conclusion of the trial is likely to take a long time as only 05 prosecution witnesses have been examined so far out of total 22 witnesses; the instant petition is allowed. The petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

05.11.2019

Waseem Ansari

**(ARVIND SINGH SANGWAN)
JUDGE**

*Whether speaking/reasoned
Whether reportable*

*Yes/No
Yes/No*