

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.32333 of 2019 (O&M)
Decided on: 17.12.2019

Gurpreet Singh @ Gura

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. L.S. Sekhon, Advocate
for the petitioner.

Mr. Jagmohan Ghumman, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for grant of regular bail to the petitioner under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.101 dated 24.05.2018, for offence punishable under Sections 379, 411 of the Indian Penal Code, 1860 (in short 'IPC') and 22, 29 of the of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short 'the NDPS Act'), registered at Police Station City Moga, District Moga.

Counsel for the petitioner has relied upon the order dated 05.11.2019 passed in CRM-M No.30502 of 2019 vide which the co-accused Jagjit Singh @ Jaggi, who was the pillion rider of the motorcycle which was driven by the petitioner – Gurpreet Singh @ Gura, was granted the concession of regular bail, by passing the following order:-

“....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....”

Counsel for the State, on instructions from HC Manpreet Singh, has not disputed the factual position but opposed the prayer for bail. It is further submitted that the petitioner is not involved in any other case.

Without commenting anything on merits of the case, considering the fact that the petitioner is not involved in any other case; he is in judicial custody since 24.05.2018; the co-accused of the

petitioner namely Jagjit Singh @ Jaggi, has already been granted the concession of regular bail and it will take some time in conclusion of the trial, this petition is allowed and the petitioner is directed to be released on bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail of the petitioner, in case he is found involved in any other case or misusing the concession of bail, in any manner.

17.12.2019
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(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable:	Yes/No