

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

**Crl. Misc. No.M-33336 of 2019 (O&M)
Date of Decision: August 26, 2019**

Harpreet Singh

.....PETITIONER

VERSUS

State of Punjab

.....RESPONDENT

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Mandeep Kumar Dhot, Advocate
for the petitioner.

SURINDER GUPTA, J.(Oral)

The present petition has been filed under Section 439 Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 67 dated 27.05.2019 registered for the offences punishable under Section 15 of Narcotic Drugs & Psychotropic Substances Act, at Police Station City 1 Malerkotla, District Sangrur.

Heard.

Notice of motion.

On asking of the court, Mr. Arpinder Singh Sidhu, D.A.G., Punjab, who is present in the Court accepts notice and submits that intimation by Registry informing of fixation of the petition has already been received and record of the case is available with him.

As per case of the prosecution, the police party headed by SI Gurtar Singh of Police Station City-1 Malerkotla stopped a Canter bearing

Registration No. PB-08-CH-9409 which was being driven by Brij Mohan @ Kala son of late Bhagirath Ram, resident of village Badla Halta, District Hoshiarpur. The petitioner, who was a handicapped person was sitting with him and was taken out from the canter on a wheelchair. On search of the Canter, 250 kilograms of poppy husk was recovered.

Learned counsel for the petitioner submits that petitioner is a handicapped person. He is not involved in any other case. Being handicapped person, it could not be believed that he had loaded contraband in the Canter or was aware of it.

Learned State counsel submits that petitioner as well as main accused belong to same area within the jurisdiction of Police Station Matiana, District Hoshiarpur. It cannot be believed that the contraband was being carried in the Canter without consent of the petitioner.

The Canter was loaded with 300 bags out of which 9 bags were found containing poppy husk. The petitioner is not owner of the Canter/truck and as per version of the prosecution itself he was taken out from the Canter on a wheelchair. It will be a matter to be seen by the trial Court to ascertain that petitioner was in conscious possession of the contraband.

Keeping in view the above facts, the present petition is allowed. Petitioner Harpreet Singh is ordered to be released on regular bail on furnishing bail bond and surety bond to the satisfaction of concerned Chief Judicial Magistrate/Duty Magistrate, subject to following terms:-

- a. The petitioner shall comply with the conditions mentioned in Section 437(3) Cr.P.C.
- b. In the event of his absence on any date of hearing, the benefit

of bail allowed to the petitioner shall stand withdrawn. The trial Court shall be competent to cancel his bail bond and surety bond and proceed to procure his presence in accordance with law. In that eventuality the petitioner shall have to apply for bail afresh.

- c. He shall not leave the country without the prior permission of the Court.

August 26, 2019
Jyoti-II

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*