

CRM-M-35441-2019

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

CRM-M-35441-2019

Date of Decision: 09.09.2019

Kush @ Baba

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr. Gursimran Singh Bawa, Advocate,
for the petitioner.

Mr. Sidakmeet Singh Sandhu, AAG, Punjab.

INDERJIT SINGH, J. (Oral)

Petitioner has filed this petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in case FIR No.226 dated 27.11.2018, registered at Police Station Islamabad, Amritsar, District Police Commissionerate Amritsar, under Sections 21 and 29 of the NDPS Act, 1985.

Notice of motion has been issued. Learned State counsel has appeared and contested the instant petition.

I have heard learned counsel for the petitioner as well as learned State counsel and gone through the record.

Perusal of FIR shows that Investigating Officer in this case conducted the personal search of the accused without complying with the

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mandatory provisions of Section 50 of the NDPS Act, 1985. It is different thing that on personal search, as per the prosecution version, nothing has been recovered. Further as per the prosecution version, 260 grams of heroin has been recovered from a plastic bag lying in the dicky of Activa. As stated in the FIR, the Investigating Officer weighed the heroin alongwith plastic bag. More than 250 grams of heroin falls in commercial quantity and in this case, weight of plastic bag has been included in 260 grams. There is every chance that recovery in the present case may fall in non-commercial quantity.

The petitioner has been in custody for about 10 months. He is not required for any investigation or interrogation purposes as he is in judicial custody. The trial of the case may take a long time. No useful purpose will be served by keeping him in custody till the final disposal of the case.

Keeping in view the facts and circumstances of the present case; without discussing the facts in minute detail and without expressing any opinion on the merits of the case, this criminal miscellaneous petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing personal bonds in the sum of Rs.50,000/- with one surety in the like amount to the satisfaction of the trial Court/Duty Magistrate.

09.09.2019

parveen kumar

**(INDERJIT SINGH)
JUDGE**

Whether speaking/reasoned : Yes
Whether reportable : No