

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

207

CRM-M-41901-2019

Date of decision: 04.12.2019

Mandeep Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Gurpal Singh Sandhu, Advocate
for the petitioner.

Mr. Sandeep Singh Deol, D.A.G. Punjab
for the respondent-State.

ARUN KUMAR TYAGI, J (ORAL)

Prayer in the present 2nd petition filed under Section 439 of the Code of Criminal Procedure is for grant of regular bail to the petitioner in case FIR No.103 dated 01.06.2018 registered under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'the NDPS Act') at Police Station Lambi, District Sri Muktsar Sahib.

His 1st application for grant of regular bail was dismissed as withdrawn by the Coordinate Bench of this Court vide order dated 07.03.2019.

The petitioner and his co-accused Parminder Singh @ Parwinder Singh and Gurcharan Singh have been charge-sheeted by SHO, Police Station Lambi, District Muktsar Sahib for alleged commission of offence punishable under Section 22 of the NDPS Act on the allegations of recovery of 25 bottles containing intoxicant ONEREX and 250 tablets containing Carisoprodol Carisoma from a

plastic bag carried by co-accused Gurcharan Singh who was sitting in the middle of motorcycle driver by the petitioner while the Parminder Singh @ Parwinder Singh was the third pillion rider sitting after co-accused Gurcharan Singh.

Learned Counsel for the petitioner has submitted that the petitioner has been falsely implicated. No recovery was effected from his possession. The petitioner cannot be said to be in conscious possession of the contraband allegedly recovered from the possession of co-accused Gurcharan Singh. No independent witness was joined during investigation and the mandatory provisions of the NDPS Act were not complied with. The petitioner is in custody since 01.06.2018. The petitioner is not involved in any other case under the NDPS Act. Co-accused Parminder Singh @ Parwinder Singh has already been granted regular bail by this Court vide order dated 21.11.2019. Therefore, the petitioner may be ordered to be released on regular bail.

On the other hand, learned State Counsel has submitted that the petitioner is accused of having committed serious offences by keeping commercial quantity of the contraband in his conscious possession along with his co-accused and the petitioner does not deserve the concession of regular bail. However, learned State Counsel has conceded that the petitioner is not involved in any other case under the NDPS Act.

Keeping in view the facts and circumstances of the case, involvement of question as to whether the petitioner can be said to be in conscious possession of the contraband recovered from his co-accused Gurcharan Singh and the fact that he is not involved in any other case

under the NDPS Act which by implication satisfies both the conditions of Section 37(1)(b) of the NDPS Act, the period of his custody and parity with co-accused Parminder Singh @ Parwinder Singh who has already been granted regular bail by this Court vide order dated 21.11.2019 but without expressing any opinion on merits of the case, I am of the considered view that the petitioner deserves the concession of regular bail. Therefore, the petition is allowed and the petitioner is ordered to be released on bail on furnishing of bail bonds to the satisfaction of the Trial Court/Duty Magistrate. However, in case of commission of any offence under the provisions of the NDPS Act by the petitioner in future, his bail in the present case shall also be liable to be cancelled on filing of application in this regard.

04.12.2019

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(ARUN KUMAR TYAGI)
JUDGE

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