

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

**CRM-M No.44433 of 2019
Decided on: 05.12.2019**

Mohan Lal

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. G.S. Sidhu, Advocate
for the petitioner.

Mr. Naveen Sheoran, DAG, Haryana.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this 2nd 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.143 dated 28.09.2018, for offence punishable under Section 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short 'the NDPS Act'), registered at Police Station Nathusari Chopta, District Sirsa.

The first petition was earlier disposed of as the petitioner was granted interim bail awaiting the report of the FSL and on receiving the said report, the petitioner surrendered back before the Court.

Counsel for the petitioner has submitted that, as per the allegations in the FIR, the police on suspicion apprehended 03 persons, coming in a car. The co-accused – Shaadi Lal @ Shaadi Ram was the driver of the car and one Prithvi was sitting on the co-driver seat and

the petitioner was sitting on the rear seat of the car. Thereafter, the Investigating Officer served a notice upon all the 03 accused and the Deputy Superintendent of Police was called at the spot and from a box lying near the gear lever of the car, 285 gms of intoxicant powder was recovered.

Counsel for the petitioner has further argued that since the petitioner was neither the owner nor the driver of the car, therefore, one of the moot point to be decided during the course of trial would be, as to whether the petitioner was in conscious possession of the contraband or not. It is further the case of the prosecution that the petitioner and two co-accused, have acquired the alleged contraband from Nigerian person namely John, however, he was not arrayed as an accused nor any investigation in this regard was done.

Counsel for the State, on instructions from ASI Ram Singh, has not disputed the factual position but opposed the prayer for bail. It is further submitted that the petitioner is in custody for the last 07 months and 11 days and he is not involved in any other case. It is also argued that 06 prosecution witnesses have been examined out of 16 PWs.

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 for the last 07 months and 11 days; out of 16 prosecution witnesses, only 06 PWs have been examined so far 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/Illaq

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.

(ARVIND SINGH SANGWAN)
JUDGE

05.12.2019
yakub

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