

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

CRM-M-45759 of 2019
Date of Decision:31.10.2019

Gurcharan Singh @ Charni

....Petitioner

Versus

State of Punjab

...Respondent

CORAM:HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Kanwaljit Singh Brar, Advocate
for the petitioner.

Mr. V.G. Jauhar, Sr. DAG, Punjab.

MAHABIR SINGH SINDHU, J.(Oral)

Present petition has been filed under Section 439 Cr.P.C.
seeking bail pending trial in case FIR No. 83 dated 26.07.2017, under
Sections, 15, 25, 29, 61 and 85 of the Narcotic Drugs and
Psychotropic Substances Act, 1985 registered at Police Station
Barnala, District Barnala.

As per the case of the prosecution that on 26.07.2017,
the petitioner alongwith Balpreet Singh @ Balli, Gurjoban Singh,
Gurwinder Singh @ Kaka and Kuldeep Singh @ Babli, were found in
conscious possession of 25 bags of poppy husk and each bag was
containing 36 Kgs of Poppy husk, while travelling in truck bearing
registration No. PB-13AB-6317.

Learned counsel for the petitioner contends that the petitioner is an innocent person and has been falsely implicated in the present case. He further contends that the petitioner is neither the driver of the truck; nor owner. Also contends that the petitioner is in custody since 26.07.2017 and the co-accused of the petitioner namely, Angrej Singh has been granted the concession of pre-arrest bail by this Court vide order dated 20.02.2018 passed in CRM-M-46905 of 2017.

Per contra, learned State counsel has opposed the bail on the ground that the alleged contraband recovered from the truck in which the petitioner was travelling alongwith other co-accused is commercial in nature. Also contends that during investigation it has come in the disclosure statement of Driver-Gurwinder Singh that from the alleged recovery five bags were meant to be delivered to the present petitioner. Further contends that after investigation in the matter report under Section 173 Cr.P.C. was submitted on 07.05.2018 and challan has already been presented. There are total 36 prosecution witnesses and 9 have been examined. Hence, he prays for dismissal of the bail.

Heard learned counsel for the parties and perused the paper book.

As per prosecution case, the alleged contraband i.e. 25 bags of poppy husk were recovered from the truck in which the petitioner was travelling and that is commercial in nature. After investigation report under Section 173 Cr.P.C. was submitted and

charges have also been framed and now the case is fixed for prosecution evidence. In view of the provisions of Section 37 of the NDPS, Act there is a bar to grant bail pending trial in such like case(s).

Keeping in view the aforesaid facts, the petitioner is not entitled to the concession of bail. Hence, the present petition is hereby dismissed.

The above observations, may not be construed as an expression of opinion on merits of the case.

[MAHABIR SINGH SINDHU]
JUDGE

October 31, 2019

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Whether speaking/reasoned
Whether reportable?

yes/no
yes/no