

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

CRM-M No.55927 of 2018

DATE OF DECISION : 3rd JULY, 2019

Niamat Masih

.... Petitioner

Versus

State of Punjab

.... Respondent

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

* * * *

Present : Mr. Varinder Basa, Advocate for the petitioner.

Mr. Kirat Singh Sidhu, Deputy Advocate General, Punjab.

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RAJBIR SEHRAWAT, J. (Oral)

The present petition has been filed by the petitioner under Section 439 Cr.P.C. for grant of regular bail in case FIR No.114 dated 27.06.2018 registered under Section 15 of Narcotics Drugs & Psychotropic Substances Act, 1985 at Police Station Dina Nagar, District Gurdaspur.

It is submitted by learned counsel for the petitioner that the allegation against the petitioner is that 181 kg of poppy husk has been recovered from the truck driven by the petitioner. He further submits that the petitioner is only a small time transporter having a vehicle involved in the present case as a source of his livelihood. On the fateful day the petitioner was carrying the consignment loaded by co-accused Sukhdev Singh. The consignment was given by the said Sukhdev Singh in sealed bags. Therefore, the petitioner was not even aware of the contents of the bags. It is further submitted by counsel for the petitioner that it is the first case against the petitioner under the NDPS Act, whereas, the said Sukhdev Singh is having two more cases against him. This also suggests that it is the doing of Sukhdev Singh and the petitioner has not committed

any crime. It is also submitted that the petitioner is in custody since 27.06.2018. The trial of the case has commenced. However, out of fourteen witnesses only two have been examined. Therefore, the trial is likely to take longer time. The petitioner is not required for any investigation purposes. Moreover, the said co-accused Sukhdev Singh has already been released on bail. Hence, the petitioner be released on bail during the pendency of the trial.

On the other hand, learned counsel for the State on being instructed by ASI Romesh Kumar, submits that there is huge recovery of poppy husk from vehicle of the petitioner. It is further submitted that under the Act there is presumption against the petitioner qua the conscious possession of the said material, since it is recovered from the vehicle owned and driven by the petitioner. However, it is not disputed that there is no other case against the petitioner and that the co-accused Sukhdev Singh has already been released on bail. He has also not disputed that the petitioner is in custody from 27.06.2018 and that only two witnesses have been examined in the case so far.

In view of the above, but without commenting upon merits of the case, the present petition is allowed. It is ordered that the petitioner be released on bail on his furnishing bail bonds/sureties to the satisfaction of the trial Court/Duty Magistrate.

3rd JULY, 2019
'raj'

(RAJBIR SEHRAWAT)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>	<i>No</i>
<i>Whether Reportable:</i>	<i>Yes</i>	<i>No</i>