

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

**CRM-M-8319 of 2020
Date of Decision:-03.03.2020**

Swaran Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM:- HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Neeraj Madaan, Advocate
for the petitioner.

Mr. A.P.S. Gill, DAG, Punjab.

JASGURPREET SINGH PURI J.(Oral)

Petitioner-Swaran Singh has filed the present petition under Section 439 Cr.P.C. for grant of regular bail pending trial in case FIR No.144 dated 19.9.2019, under Section 22 of NDPS Act, registered at Police Station Sadar Malout (W), District Sri Muktsar Sahib.

Learned counsel for the petitioner has argued that in the present case the petitioner has been falsely implicated. He further submitted that even as per the FIR the petitioner was carrying a transparent polythene bag containing the tablets which he had allegedly thrown. He has stated that the story put forward by the prosecution itself is falsified from the facts that it is totally improbable. He has further submitted that the petitioner is not involved in any other case till date and he was wrongly implicated in the

present case. He has further submitted that the story put forward by the prosecution that the petitioner was carrying the contraband in a transparent polythene is totally improbable because nobody would do such kind of illegal activity or action by carrying prohibited drugs in a transparent polythene bag. He has further pointed out that it has been repeatedly recorded in the FIR that the polythene was transparent in nature. He has submitted that the petitioner is in custody since 19.09.2019 and the investigation in the case has already completed and charges have also been framed. He has further submitted that considering the totality of the circumstances and the fact that he is not involved in any other case, the concession of bail may be granted to the petitioner.

Per contra learned Stae counsel on instructions stated that the recovery was effected from the conscious possession of the petitioner and although the bag was transparent, this cannot become a ground for grant of benefit of bail to the petitioner. So far as the custody period of the petitioner is concerned, the State counsel has filed the custody certificate of the petitioner by way of affidavit of Gurjeet Singh Brar, Deputy Superintendent, Central Jail, Faridkot, and has not disputed the same. The custody certificate is taken on record. It is also not disputed that the investigation in the present case is already completed and charges have also been framed.

I have heard learned counsel for the parties and gone through the case file.

At the time of deciding this bail application, there are various factors, which are to be seen, especially as to what are the antecedents of

the petitioner and in case the petitioner is enlarged on bail then whether he can repeat the offence or he can influence the witnesses of the case or not. In the present case, it is not the case of the State that the petitioner if enlarged on bail then he may tamper with the record of influence any witnesses or that he may repeat the offence, particularly in view of the fact that no other case is pending against the petitioner. Therefore at this stage while deciding the application for releasing the petitioner on bail, considering the totality of circumstances of the case, I deem it fit and appropriate to admit the petitioner on bail. Resultantly, the present petition is allowed. It is ordered that the petitioner shall be released on regular bail on his furnishing bail bond/surety to the satisfaction of the learned trial Court.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant for the purpose of deciding the present petition only.

March 03, 2020
Vijay Asija

(JASGURPREET SINGH PURI)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes / No
Yes / No