

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

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**CRM-M-31559-2019
Date of decision : 30.01.2020**

Buta Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. L.S. Sekhon, Advocate
for the petitioner.

Mr. Arun Kaundal, DAG, Punjab
for the respondent-State.

ARUN KUMAR TYAGI, J (ORAL)

The petitioner has filed the present petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in case FIR No.72 dated 15.07.2017 registered under Sections 15, 25 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, "NDPS Act") at Police Station Mehna, District Moga.

The facts relevant for disposal of the petition are that on 15.07.2017 police party headed by S.I. Lakhwinder Singh, Incharge, Anti Narcotic Drugs Staff, Moga intercepted Innova Car bearing registration No.PB-29M-0648 out of which one person escaped while two persons co-accused Buta Singh and Piyara Singh were apprehended and on search as per the prescribed procedure four bags containing 35 kgs. each of poppy-husk were recovered from the said car. During investigation, co-accused Buta Singh disclosed the name of the person who had escaped as Darshan Dass @ Ali. On his arrest said Darshan Dass @ Ali in his disclosure statement named the present petitioner and Harbans Singh @ Raja as the persons from whom they had purchased poppy-husk. Initially, the petitioner was declared proclaimed offender vide order dated 16.03.2018 and charge-sheet was filed against his co-accused Buta Singh, Piyara Singh and Darshan Dass alias Ali who are facing separate trial. On arrest of the petitioner, supplementary charge-

sheet has been filed against the petitioner. The petitioner who is in custody since 20.06.2019 has filed the present petition for grant of regular bail.

Learned State Counsel has appeared and opposed the bail application.

I have heard learned Counsel for the petitioner and learned State Counsel and gone through the record.

Learned Counsel for the petitioner has submitted that the petitioner has been falsely implicated only on the basis of disclosure statement made by co-accused which is not admissible and not of any evidentiary value against the petitioner. There is no other evidence to connect him with the co-accused and recovery of the narcotic substance. The trial is likely to take long time. No useful purpose will be served by detention of the petitioner in custody. Therefore, the petitioner may be released on regular bail.

On the other hand, learned State Counsel has submitted that the allegations against the petitioner are serious. The petitioner was involved in two cases under the NDPS Act. In view of the nature of accusation and gravity of offence, the petitioner does not deserve grant of regular bail and the petition may be dismissed.

In reply to these submissions, learned Counsel for the petitioner has submitted that the petitioner was involved in two other FIRs but at the time of registration of first FIR he was juvenile while in the second case also he has been falsely involved on the basis of disclosure statement of co-accused.

In the present case the petitioner has been implicated on the basis of disclosure statement of co-accused Darshan Dass @ Ali and there is no other material/evidence connecting him with his co-accused and the narcotic substances recovered. In the earlier case also which is pending, the petitioner was implicated on the basis of disclosure statement. The petitioner was not arrested from the spot and no recovery was made from him. The rigors of Section 37 (1)(b) of the NDPS Act are not applicable qua the petitioner and in any case the same stand satisfied by due implication. Keeping in view the facts and

circumstances of the case, nature of accusation against the petitioner, kind of evidence available against him and also the fact that the trial against him is likely to take long time but without commenting 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 regular bail on furnishing of bail bonds by him to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

However, the petitioner is granted regular bail subject to the condition that he shall not commit any similar offence and in case of commission of similar offence by him in future his bail in the present case shall also be liable to be cancelled on application to be filed in this regard.

30.01.2020

Kothiwal

(ARUN KUMAR TYAGI)
JUDGE

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