

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

**CRM-M No.17698 of 2021
Date of Decision:27.05.2021**

**GURWINDER SINGH @ KAKAPetitioner
Vs
STATE OF PUNJABRespondent**

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present:Ms. Manpreet Ghuman, Advocate
for the petitioner.

Mr. Sukhbeer Singh, AAG, Punjab.

RAJ MOHAN SINGH, J.(Oral)

The case has been taken up for hearing through video conferencing.

Prayer is for grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.83 dated 26.07.2017, registered under Sections 15, 25, 29 of NDPS,1985, and later on added Sections 61, 85 of NDPS, Act 1985, Police Station Barnala, District Barnala.

As per allegations in the FIR, 5 persons were found present in a truck from where 25 gunny bags each containing 36 kgs of poppy husk were allegedly recovered. Some amount was also recovered from the persons.

Learned counsel for the petitioner submits that Angrej

Singh is the owner of the truck who has been granted anticipatory bail vide order dated 20.02.2018 in CRM-M No.46905 of 2017. Petitioner is in custody for the last more than 3 years. Co-accused Kuldeep Singh alias Babli has also been granted regular bail vide order dated 14.08.2020 passed in CRM-M No.50254 of 2019.

The alleged complicity of the petitioner cannot be segregated from the co-accused who have been granted regular and anticipatory bail by the High Court. It appears that a distinction has been drawn while rejecting the regular bail of the petitioner on the premise that the petitioner was driving the vehicle in question. As per disclosure statement of the petitioner his status as driver of the vehicle in question would remain debatable as he has not admitted himself to be the driver of the vehicle in question in conclusive terms.

Learned State counsel on instruction from SI Baldev Singh as well as in the status report by way of affidavit of Lakhvir Singh PPS, Deputy Superintendent of Police, Sub Division, Barnala, could not dispute the fact that the Police has not collected incriminating material with regard to status of the petitioner being that of driver except to record his disclosure statement where the alleged complicity of the petitioner could not be pointed out conclusively.

Learned counsel further submits that after framing of charges 10 prosecution witnesses have been examined so far out of total 29 witnesses.

Keeping in view custody of the petitioner, stage of the trial, parity with co-accused and situation arising out due to COVID-19 pandemic and without adverting to the merits of the case, I deem it appropriate to enlarge the petitioner on regular bail.

In view of above, petition is allowed. Petitioner is ordered to be released on regular bail, subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of the trial Court/concerned Duty Magistrate.

Nothing expressed hereinabove would be construed to be an expression of any opinion on merits of the case.

27.05. 2021*Amandeep*

Whether speaking/reasoned

Whether reportable

**(RAJ MOHAN SINGH)
JUDGE**

Yes/No

Yes/No