

(2016) 01 P&H CK 0355
In the Punjab And Haryana At Chandigarh
Case No : CRM-M No. 2210 of 2016.

Amandeep Singh @ Mandeep

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision : 28-01-2016

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 439

Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS) — Section 61

Citation : (2016) 2 LawHerald 1462

Hon'ble Judges : Fateh Deep Singh, J.

Bench : Single Bench

Advocate : Lakhwinder S. Mann, Advocate, for the Appellant; C.S. Brar, Dy. Advocate General, Punjab, for the Respondent

Final Decision : Disposed off

Judgement

Fateh Deep Singh, J. - In this second regular bail application filed by Amandeep Singh @ Mandeep under Section 439 Cr.P.C. pertaining to case FIR No. 161 dated 03.08.2014 registered at Police Station Dakha, District Ludhiana under Sections 15/61/85 of the Narcotic Drugs and Psychotropic Substances Act, 1985, the precise allegations of the prosecution are that on the information provided by complainant Kulwant Singh, who on visit to his tube-well room in the area of village Talwandi Khurd on 03.08.2014 had come across 11 bags lying in the room and on close examination discovered all the bags to be containing poppy husk weighing 20 kg each, in all totalling to 2 quintals and 20 kilograms leading to registration of the FIR in question.

2. Prosecution has opposed bail to the petitioner on the ground that being commercial quantity the petitioner was not entitled to any bail, however, learned counsel for the petitioner has sought to impress upon this Court that it is the own case of the complainant that the tube-well room was locked with his lock and he has never been sufficiently interrogated and that the only semblance of evidence is that after arrival of the police, the accused was seen escaping on his

motorcycle and who has confessed of his involvement subsequently.

3. Appreciating the submissions, the very plausibility of the prosecution version smacks of falsehood. Apparently, occurrence took place around 10.30 hours and the FIR has been registered at 13.40 hours, after more than 3 hours and that it was mere on suspicion the complainant named the petitioner without any legally tangible reasons and the fact that it is highly implausible that the petitioner would be available at the place of occurrence hours after the police have arrived who could even see him escaping from the place, when the contraband admittedly has not been recovered at his behest and the recovery is prior to these allegations.

4. Thus, in the totality of all this and the fact that petitioner is in custody for one-and-a-half years, trial is not likely to conclude in the near future and culpability, if any, shall be determined at the time of trial. The legal effect of the alleged confession before a police officer in terms of Section 25/26 of the Indian Evidence Act, 1872 is debatable, impels this Court to hold that further detention of the petitioner in the present case is not warranted. Accordingly, he is ordered to be released on regular bail to the satisfaction of Chief Judicial Magistrate/Duty Magistrate, Ludhiana.

5. The petition stands disposed off accordingly.