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**(2010) 09 P&H CK 0425**

**High Court Of Punjab And Haryana At Chandigarh**

**Case No:** C.R.M. No. M-21378 of 2010

Gurbax Singh alias Manga

APPELLANT

Vs

State of Punjab

RESPONDENT

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**Date of Decision:** Sept. 21, 2010

**Acts Referred:**

- Criminal Procedure Code, 1973 (CrPC) - Section 439
- Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS) - Section 15

**Hon'ble Judges:** Mehinder Singh Sullar, J

**Bench:** Single Bench

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**Judgement**

Mehinder Singh Sullar, J.

Having exercised his right of regular bail and lost in the Court of Session, petitioner Gurbax Singh alias Manga, has directed the present petition for regular bail in a case registered against him alongwith his other co-accused, namely, Bitia, Ghanshyam alias Bablu and Vijay Kumar, vide FIR No. 109 dated 29.4.2010, on accusation of having committed the offence punishable u/s 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 by the police of Police Station Rajpura, Distt. Patiala, invoking the provisions of Section 439 Cr.P.C.

2. Concisely, the prosecution claimed that on 29.4.2010, the petitioner was driver on the three wheeler, while his remaining co-accused were traveling in it. The police party stopped the three wheeler and on the basis of suspicion, it was checked. According to the prosecution, 10 Kilograms of poppy husk was recovered from the bag, which was lying near the feet of Gurbax Singh-petitioner, while 25 Kgs. each from the bag of accused Bitia and Ghanshyam and 15 Kgs. from the bag of Vijay Kumar was recovered. On the basis of aforesaid allegations, the present case was registered against the accused, in the manner depicted here-in-above.

3. Notice of the petition was issued to the State.

4. Having heard the learned Counsel for the parties, having gone through the record with their valuable help and after bestowal of thoughts over the entire matter, to my mind, the present petition deserves to be accepted in the obtaining circumstances of the case.

5. It is not a matter of dispute that all the accused were in possession of their individual bags of poppy husk in the same three wheeler. Only 10 Kg. of poppy husk was stated to have been recovered from the bag of Gurbax Singh petitioner. He was arrested on 29.4.2010. Since then he is in judicial custody. There is no history of previous involvement of the petitioner in such like cases. The conclusion of the trial would naturally take long time.

6. Therefore, taking into consideration the quantity of poppy husk (10 kg.) recovered from the petitioner, the fact that he is in judicial custody since 29.4.2010 and totality of the other facts and circumstances, emanating from the record, as discussed here-in-above, to me, the present petitioner is entitled to regular bail.

7. In the light of the aforesaid reasons and without commenting further anything on merits, lest it may prejudice the case of either side during the course of the trial of the case, the petitioner is directed to be released on bail on his furnishing bail and surety bonds to the satisfaction of Chief Judicial Magistrate or in his absence Duty Magistrate, Patiala.

8. The instant petition is disposed of accordingly.