

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-M-13144 of 2017
Date of Decision: 13.07.2017

Major Singh

....Petitioner

VERSUS

State of Punjab

....Respondent

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr.Vipul Jindal, Advocate
for Mr. R.S. Sekhon, Advocate
for the petitioner.

Mr. Ajay Pal Singh Gill, DAG, Punjab.

SURINDER GUPTA, J.(Oral)

The present petition has been filed under Section 439 Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 81 dated 30.05.2015 registered for the offence punishable under Section 22 of Narcotics Drugs and Psychotropic Substances Act, 1985, at Police Station Kulgarhi, District Ferozepur.

Heard.

Learned counsel for the petitioner submits that as per case of prosecution, the investigating officer before conducting raid had given offer to petitioner to get his search conducted before a gazetted officer, illaqa Magistrate or from him. The offer is bad in the eyes of law.

The petitioner was arrested on 30.05.2016 and is in custody since then. Trial of the case has not been concluded so far.

As to whether the offer made to petitioner was in accordance with provisions of Section 50 NDPS Act, is a fact to be seen and determined by the trial Court on the basis of evidence produced before it.

In view of above but without expressing any opinion on merits of the case and keeping in view the fact that conclusion of trial will take considerably long time, the present petition is allowed. Petitioner-Major Singh is ordered to be released on regular bail on furnishing bail bond and surety bond to the satisfaction of concerned trial Court/Chief Judicial Magistrate/Duty Magistrate, subject to following terms:-

- (a) The petitioner shall comply with the conditions mentioned in Section 437(3) Cr.P.C.
- (b) In the event of his absence on any date of hearing, the benefit of bail allowed to the petitioner shall stand withdrawn. The trial Court shall be competent to cancel his bail bond and surety bond and proceed to procure his presence in accordance with law. In that eventuality the petitioner shall have to apply for bail afresh.
- (c) He shall not leave the country without the previous permission of the Court.

July 13, 2017
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No