

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-M-16162 of 2017
Date of Decision: 27.10.2017

Lakhbir Singh

....Petitioner

VERSUS

State of Punjab

....Respondent

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Kunal Vinayak, Advocate
for the petitioner.

Mr. C.L. Pawar, Sr. D.A.G., 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.35 dated 27.05.2015 registered for offences punishable under Sections 379 and 411 of Indian Penal Code and 21/22 of Narcotics Drugs and Psychotropic Substances Act, 1985 at Police Station Mattewal, Amritsar.

Heard.

As per case of prosecution, the petitioner was arrested on the basis of secret information and a stolen motorcycle was recovered from his possession. On the search of right pocket of his pant, 100 gms. of intoxicating powder 'diphenoxylate' was recovered.

Learned counsel for the petitioner submits that the investigating officer before effecting recovery has not complied with the provisions of Section 50 of NDPS Act and has relied on order dated 17.07.2017 passed in CRM-M-24261-2017, vide which accused in that case with similar allegations was allowed bail.

The petitioner was arrested on 27.05.2015 and released on interim bail on 15.09.2015. Again he was taken into custody on 13.02.2017 and is in custody since then. Admittedly, provisions of Section 50 NDPS Act were not complied with in this case and it is for the trial Court to see as to what is the effect of non-compliance of this provision.

Looking into facts and circumstances of the case 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-Lakhbir 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- (b) In the event of his absence on any date of hearing, the benefit of bail allowed to the petitioner shall stand withdrawn.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.

October 27, 2017
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No