

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

CRM No.M-24261 of 2017 (O&M)

Date of Decision: July 17, 2017

Lakhwinder Singh @ Lovely

...Petitioner

VERSUS

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.G.S.Virk, Advocate for
Mr.G.S.Nagra, Advocate
for the petitioner.

INDERJIT SINGH, J.

Petitioner has filed this petition under Section 439 Cr.P.C. for grant of regular bail in case FIR No.399 dated 06.11.2014 under Sections 399, 402, 382 IPC and Section 25 Arms Act (Section 21 of the NDPS Act added later on), registered at Police Station Civil Lines, District Amritsar City.

Notice of motion.

Mr.Gaurav Garg Dhuriwala, Sr. DAG, Punjab, has put in appearance on behalf of the respondent-State and contested the petition.

Police record is also available.

I have heard learned counsel for the petitioner as well as learned State counsel and have gone through the record.

From the record, I find that in the present case, FIR has been

registered on the basis of the secret information that the present petitioner along with other co-accused is committing robberies in the city with blunt weapons and on that day, they were sitting in order to commit big robbery and if they are apprehended, they can be caught with huge quantity of weapons and robberies committed by them in the city could be unearthed. On the basis of this information, the FIR was registered. When the raid was conducted, present petitioner was apprehended and on search, *datar* was recovered from him. As per prosecution version, on further search, from the left pocket of the pant of the present petitioner, intoxicant powder was recovered, out of which 5 grams was separated as sample and the remaining powder on weighment came to 95 grams.

The perusal of the police record nowhere shows that provisions of Section 50 of the NDPS Act have been complied with. The provisions under Section 50 of the NDPS Act are mandatory in nature but no offer was given to the accused before the recovery. As per FSL report, intoxicant powder was found to be containing Diphenoxylate salt, which falls under commercial quantity. However, as, no offer was given under Section 50 of the NDPS Act, therefore, mandatory provisions have not been complied with qua recovery under the NDPS Act.

The present petitioner has been in custody since 11.02.2017. He is not required for any investigation or interrogation purposes as he is in judicial custody. The trial of the case will take long time. No useful purpose will be served by keeping the petitioner in custody till disposal of the case.

Keeping in view the facts and circumstances, I find that the present petitioner is entitled for benefit of regular bail.

Therefore, finding merit in the present petition, the same is

allowed. The petitioner is ordered to be released on bail subject to his furnishing personal/surety bonds in the sum of ₹50,000/- with one surety in the like amount to the satisfaction of the trial Court/Duty Magistrate.

However, nothing stated above will constitute my opinion on the merits of the case and the above-said observations have been given only for deciding the present case.

July 17, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No