

IN THE PUNJAB & HARYANA HIGH COURT AT CHANDIGARH

CRM-M-3329-2016

Date of decision : 06.03.2017

Adish Kumar Jain

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Sandeep Kumar Passi, Advocate
for the petitioners.

Mr. Rajesh Mehta, Addl.A. G. Punjab.

AMOL RATTAN SINGH, J.(ORAL)

A perusal of the FIR, Annexure P1, shows that even after the alleged recovery was made from the petitioner, no sampling was done before the Magistrate and the ASI himself is stated to have taken samples from the contraband allegedly recovered from the petitioner and sealed them with his own stamp.

Prima-facie, that would seem to be a violation of the direction given by the Supreme Court in ***Union of India vs. Mohanlal & another, 2016(1) R.C.R. (Criminal) 858*** wherein it has been held as under:-

“(1) No sooner the seizure of any Narcotic Drugs and Psychotropic and controlled Substances and Conveyances is effected, the same shall be forwarded to the officer in-charge of the nearest police station or to the officer empowered under Section 53 of the Act. The officer concerned shall then approach the Magistrate with an application under Section 52A(ii) of the Act,

which shall be allowed by the Magistrate as soon as may be required under Sub- Section 3 of Section 52A, as discussed by us in the body of this judgment under the heading 'seizure and sampling'. The sampling shall be done under the supervision of the magistrate as discussed in paras 13 and 14 of this order."

Consequently, without making any final comment with regard thereto, which would obviously be subject matter of consideration during the trial, I consider it appropriate to admit the petitioner to bail to the satisfaction of the learned trial Court, upon his furnishing adequate bail bonds and surety bonds, subject to further complying with all other conditions as would be laid down by that Court.

Disposed of.

March 06, 2017.

Davinder Kumar

**(AMOL RATTAN SINGH)
JUDGE**

Whether speaking / reasoned

Yes/No

Whether reportable

Yes/No