

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.46461 of 2016

Date of decision : 23.02.2017

Parminder Singh @ Raja

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. AMOL RATTAN SINGH

Present: Mr. P. S. Dhaliwal, Advocate,
for the petitioner.

Mr. Sidakmeet Singh Sandhu, AAG, Punjab
for the respondent-State.

AMOL RATTAN SINGH J. (ORAL)

This petition has been filed under Section 439 Cr.P.C., for grant of 'regular bail' to the petitioner in case FIR No. 57 dated 09.04.2016, registered at Police Station City South, Moga, District Moga, for the alleged commission of an offence punishable under Section 22 of the NDPS Act, 1985.

Learned counsel for the petitioner submits that the petitioner has been in custody since 09.04.2016 with not a single witness examined so far. He further points to the fact that the petitioner and his co-accused are stated to have been accosted by a police party travelling on a private vehicle on the road, when the petitioner was on foot and upon query as to whether he wishes to be examined/searched by a Magistrate/Gazetted Officer or the official incharge of the patrolling party, he is stated to have reposed faith in the official himself. He further submits that the petitioner and his co-accused were not each specifically asked for that consent but are shown to have been questioned jointly with regard to the same.

Be that as it may, for the purpose of this bail application, it

needs to be observed that Section 50(5) of the NDPS Act, 1985 stipulates that a person who is to be personally searched must be searched before the Gazetted Officer/Magistrate unless there are reasons to believe that it is not possible to take the person to be searched to the nearest Gazetted Officer or a Magistrate without the possibility of the person to be searched parting with possession of the substantive contraband.

It is difficult to understand as to how a police party consisting of five persons travelling in a vehicle found it difficult to take two persons on foot to the nearest Gazetted Officer or Magistrate before conducting their personal search.

Hence considering the above said facts but as already stated, without making any comment on the merits of the case, which would be obviously looked at by the trial Court in the trial itself, and the fact that the trial is likely to take a long time, the petition is allowed. The petitioner shall be admitted to bail upon his furnishing adequate bail bonds and surety bonds to the satisfaction of the learned trial Court, further subject to any condition that would be laid down by that Court.

23.02.2017
adhikari

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned : *Yes/No*

Whether Reportable : *Yes/No*