

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

**CRM-M No.17523 of 2018
Decided on: 06.07.2018**

Gurpreet Singh

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Ms. Arti Kaur, Advocate
for the petitioner.

Mr. Sidakmeet Singh Sandhu, AAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

The petitioner prays for grant of regular bail under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.65 dated 17.08.2017, for offence punishable under Sections 22 and 29 of the Narcotice Drugs and Psychotropic Substances Act, 1985 (in short 'the NDPS Act'), registered at Police Station Mukandpur, District S.B.S. Nagar.

Counsel for the petitioner has submitted that as per the allegation in the FIR, ASI Surinder Singh along with his police officials, on a police patrol, noticed a white colour car and when the car was stopped, the driver of the car fled away from the spot after throwing the packet which he was carrying and a boy and girl siting on the back seat of the car were apprehended and the bags were searched. The boy revealed his name as Gurpreet Singh (petitioner herein) whereas the girl revealed her name as Harpreet Kaur. On the search of polythene bag carrying by them on their thighs, recovery of 10

injections of Buprenorphine of 2 ml each and 10 Phenramine Avil injections of 10 ml each and 40 syringes were made.

Counsel for the petitioner has further submitted that even though, as per the allegation in the FIR, an offer was made by ASI Surinder Singh for being searched before the Gazetted Officer or the Magistrate, yet the consent of the petitioner was taken for being searched before the ASI himself, which is not the proper compliance of Section 50 of the NDPS Act. It is further submitted that it will be a debatable issue as to whether the alleged recovery will fall in the commercial quantity as there is a difference in measurement of the contents of each injections in ml/mg.

Counsel for the petitioner has further argued that the petitioner is a young boy aged about 19 years and is a first offender and it will also be a debatable issue as to whether the petitioner was in conscious possession of the packet or not as the driver fled away from the spot after throwing the packet.

Counsel for the State has not disputed the factual position but opposed the prayer for bail.

Without commenting anything on merits of the case and considering the fact that the investigation is complete; the petitioner is not involved in any other case; he has undergone about 04 months of judicial lock up as per the Custody Certificate dated 03.05.2018, this petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate.

However, it will be open for the prosecution to apply for

cancellation of bail, if the petitioner is found involved misusing the concession of bail, in any manner.

06.07.2018
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(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable:	Yes/No