

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

**CRM-M-17668-2018
Date of decision: 25.10.2018**

Baldev Singh @ Balli

...Petitioner

Versus

Union Territory, Chandigarh

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Sunil K. Chindaliya, Advocate
for the petitioner.

Mr. Kuldeep Tiwari, Addl. P.P., U.T., Chandigarh.

ARVIND SINGH SANGWAN, J. (Oral)

This petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 50 dated 01.02.2018, registered under Section 22 of the Narcotic Drugs & Psychotropic Substances Act at Police Station Sector 39, Chandigarh.

Learned counsel for the petitioner submits that the petitioner is in judicial custody since 01.02.2018 and he is not involved in any other case.

Learned counsel for the petitioner has referred to the FIR to submit that neither any notice under Section 50 of the NDPS Act was served nor any Gazetted Officer or Magistrate was called at the spot, therefore, it will be a debatable issue during the course of trial whether recovery effected from the petitioner is in accordance with the provisions of the NDPS Act.

Learned counsel for the petitioner has further submitted that since no second investigating officer was joined and the entire investigation

was conducted by the same officer, it will again be a debatable issue whether the judgment rendered by Hon'ble Supreme Court in ***Mohan Lal vs. State of Punjab, 2018 (3) Law Herald (P&H) 2397 (SC)*** will be applicable to this case or not.

Learned counsel for the U.T., Chandigarh, on instructions from SI Kulwant Singh, does not dispute the factual position and submits that it is a case of chance recovery.

I have heard learned counsel for the parties.

Without commenting upon the merits of the case, considering the submissions made by learned counsel for the petitioner and also in view of the judgment rendered in ***Mohan Lal's case (supra)***; the instant petition is allowed. The petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.

October 25, 2018

Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No