

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

Sr. No.209

CRM-M-2436-2018

Date of decision : 29.01.2018

Sahib Singh

..... Petitioner

VERSUS

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Vipin Mahajan, Advocate, for the petitioner.

Mr. Kirat Singh Sidhu, DAG, Punjab.

SUDHIR MITTAL, J. (Oral)

This is a petition under Section 439 Cr.P.C for grant of regular bail in case FIR No.248 dated 25.12.2014, registered at Police Station Kambo, District Amritsar, under Section 22 of NDPS Act, 1985.

2. Learned counsel for the petitioner contends that the petitioner was apprehended on 25.12.2014 and 100 grams of intoxicant powder, was recovered from the dash-board of the car that he was driving. He submits that he is only the driver of the car and that after the recovery from the dash-board, a personal search was conducted, which did not yield anything from him. Further, his submission is that the personal search was conducted in violation of Section 50 of the NDPS Act, 1985. He further submits that according to the FSL report, the intoxicant powder so recovered from the dash-board of the car, contained Diphenoxylate Hydrochloride, which is a 'manufactured drug' and therefore, Section 22 of the NDPS Act, 1985, is not attracted in the present case.

3. On the contrary, learned State counsel submits that the petitioner was declared as proclaimed offender on 17.11.2016 and was again arrested on 24.02.2017. Regarding the violation of Section 50 of the NDPS Act, 1985, it is submitted that search of the car was not conducted on the basis of secret information and by chance recovery was effected during the usual search and as such there could not have been any compliance of Section 50 of the NDPS Act, 1985. He further submits that the challan has already been presented and charges have been framed. However, no prosecution witness has been examined till date. He also submits that prosecution under the NDPS Act, 1985, is maintainable even in respect of 'manufactured drug'.

4. In rebuttal, learned counsel for the petitioner has submitted that there are no other criminal cases pending against the petitioner and that when the FSL report was presented in the Court, there was no intimation to him and therefore, he was declared as proclaimed offender.

5. The judgment of the Hon'ble Supreme Court of India in **'State of Rajasthan Vs. Parmanand and another, 2014(2) RCR (Cr1.) 40'** is attracted to the facts of this case as the provisions of Section 50 of the NDPS Act, 1985, have not been complied with.

6. The charges have already been framed and therefore, the petitioner cannot attempt to hamper the investigation, in any manner. There is also no allegation that he misused the concession of interim bail granted to him by the trial Court.

7. In view of the above, I deem it appropriate to allow this petition and order that the petitioner Sahib Singh, be released on bail on

his furnishing bail and surety bonds to the satisfaction of the trial Court/Judge, Special Court, Amritsar.

(SUDHIR MITTAL)
JUDGE

January 29, 2018
Ramandeep Singh

Whether speaking / reasoned

Yes / No

Whether Reportable

Yes/ No