

CRM-M No.26804 of 2018
DATE OF DECISION:03.07.2018

Gurbinder Singh

...Petitioner

Vs.

State of Punjab

..Respondent

CORAM:- HON'BLE MRS. JUSTICE DAYA CHAUDHARYPresent: Mr. Rishu Mahajan, Advocate
for the petitioner.

Ms. Rashmi Attri, AAG, Punjab.

DAYA CHAUDHARY, J.(ORAL)

Through the present petition filed under Section 439 Cr. P.C., the petitioner seeks regular bail in case FIR No.74, dated 11.05.2018, registered under Sections 22/ 61/ 85 of the NDPS Act at Police Station Bhogpur, District Jalandhar.

A prayer has also been made for grant of interim bail to the petitioner in terms of judgment passed by this Court in case **Inderjit Singh alias Laddi and others Vs. State of Punjab 2014(3) RCR CrI Page 953.**

Learned counsel for the petitioner submits that petitioner has falsely been implicated in the case whereas he was not involved in any manner. As per allegations in the FIR, the petitioner was found in possession of 45 injections of Buprenorphine and 5 injections of Avil. The regular bail of the petitioner has been dismissed only on the ground that alleged recovery is commercial. Learned counsel also submits that there is

violation of provisions of Rule 66 of Narcotic Drugs and Psychotropic Substances Rules, 1985 as well as Section 50 of the NDPS Act which are mandatory. Investigation is in progress and challan has not been presented. Even no report has been received to show as to what is the substance of the alleged recovery. Petitioner is in custody since 11.05.2018. Learned counsel has relied upon judgments of Apex Court in cases **Vijaysinh Chandubha Jadeja Vs. State of Gujarat 2011(1) SCC 609, State of Rajasthan Vs. Parmanand & another, 2014(85) ACrC 662, Dilip & another Vs. State of M. P. 2007(1) R. C. R. (Criminal) 586, Myla Venkateswarlu Vs. State of A.P. 2012(2) RLW 1706, Sajan Abraham Vs. State of Kerala 2004(1) Andh LD (Criminal) 750**, of this Court in **Jaspal Singh @ Pala Vs. State of Punjab 2017(4) R.C.R.(Criminal) 591, Saleem Mohd Vs. State of Punjab 2015(5) Law Herald 3939, CRM-M No.250 of 2018 Amandeep Vs. State of Punjab decided on 12.01.2018, CRM-M No.20997 of 2017, Satwinder Singh Vs. State of Punjab decided on 30.08.2017, CRM-M No.46518 of 2017 Gurpreet Singh @ Gopi Vs. State of Punjab decided on 12.01.2017, Ajaib Singh Vs. State of Punjab 2012(2) R. C. R (Criminal) 330 and CRM-M-25787 of 2017 Hitesh Kumar @ Ashu Vs. State of Punjab decided on 25.01.2018 and of Himachal Pradesh High Court in State of H.P. Vs. Rakesh 2018(1) R.C.R.(Criminal) 783.**

Learned counsel also submits that there is no other case of NDPS Act pending against him and he is not having any criminal background.

Learned State counsel has not opposed the recovery as well as stage of the investigation and also non-receipt of the report but has opposed the submissions for grant of bail on the ground of recovery being commercial. It has also not been disputed that no other case is pending against the petitioner.

Heard arguments of learned counsel for the petitioner as well as learned State counsel and have also perused the contents of the FIR and other documents on the file.

Admittedly, the investigation has not been completed so far and challan has not been presented. Even no report has been received as to what are contents of the alleged recovery. Keeping in view the ratio of **Inderjit Singh alias Laddi's case (supra)**, the petitioner is entitled for interim bail in the absence of any report to show the actual contents of the alleged recovery.

Accordingly, this petition is allowed to the extent the petitioner is released on interim bail to the satisfaction of the Chief Judicial Magistrate, Jalandhar till the receipt of the Chemical Examiner report. In case the report is received and it is found that the alleged recovery falls under NDPS Act then petitioner be taken into custody.

03.07.2018
rimpal

(DAYA CHAUDHARY)
JUDGE

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