

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

**CRM-M-43392-2018
Date of Decision: 22.11.2018**

Sukhwinder Singh**...Petitioner****vs.****State of Punjab****..Respondent****CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN**

Present: Mr. B.S.Jatana, Advocate
for the petitioner.

Mr. Sidakmeet Singh Sandhu, AAG, Punjab.

ARVIND SINGH SANGWAN,J

Prayer in this petition is for grant of regular bail to the petitioner in case FIR No. 83 dated 07.07.2018 under Section 20 of the NDPS Act, registered at Police Station City Budhlada, District Mansa.

Learned counsel for the petitioner submits that the as per the allegations in the FIR, ASI Mela Singh, while on patrol duty, had allegedly seen the petitioner alongwith plastic bag in which sukha (*bhang*) is visible and on suspicion, he stopped the vehicle and apprehended the petitioner. After the petitioner disclosed his identity, the Investigating Officer checked the plastic bag without issuance any notice under Section 50 of the Act. Learned counsel further submits that it is mentioned in the FIR itself that even the personal search of the petitioner was conducted by the Investigating Officer and currency notes of Rs.100 was found and, therefore, the provisions of Section 50 of the Act has not been complied with. He further submits that even the entire investigation was conducted by the same Investigating Officer and it will be a debatable issue whether the

judgment of Hon'ble Supreme Court rendered in *Mohan Lal vs. State of Punjab, 2018 AIR (SC) 3853* will have a direct bearing on the present case as no second Investigating Officer was called and it will also be a debatable issue whether the recovery of sukha (*bhang*) would fall under the provisions of the NDPS Act.

Learned State counsel, on the basis of custody certificate dated 05.10.2018, has not disputed that the petitioner is not involved in any other case.

Heard learned counsel for the parties.

Without commenting anything upon the merits of the case, considering the submissions made by learned counsel for the parties and also in view of the judgment of Hon'ble Supreme Court rendered in Mohan Lal's case (*supra*), the present petition is allowed and petitioner is directed to be released on bail, subject to his furnishing bail bonds to the satisfaction of trial Court/Illaq Magistrate/Duty Magistrate concerned.

22.11.2018
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(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No