

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Crl. Misc. No. M-45933 of 2017
Date of Decision: March 01, 2018

Ashok Kumar @ Shoki

.....Petitioner

versus

State of U.T. Chandigarh

.....Respondent

CORAM: HON'BLE MR.JUSTICE SUDHIR MITTAL

Present: Mr. Divjyot S. Sandhu, Advocate
for the petitioner

Mr. Anil Kumar Lamdharia, Addl. PP
for U.T. Chandigarh

Sudhir Mittal, J. (Oral)

The petitioner seeks grant of regular bail in case FIR No. 300 dated 19.07.2017, registered under Section 22 of NDPS Act, 1985 at Police Station Sector 39, Chandigarh.

As per the contents of the FIR, police party was out on patrolling when they saw a clean shaven boy approaching from the opposite side carrying a white polythene bag. On spotting the patrolling party, the youth got unnerved and tried to run away. Suspecting that the said youth might be criminal, the police party nabbed him. The search yielded 50 injections of Pheniramine Maleate and 50 injections of Buprenorphine. The youth happened to be the petitioner.

Learned counsel for the petitioner submits that the petitioner has been in custody since 19.07.2017 and remained in custody till about 20.01.2018, when interim bail was granted by this Court. Thus, the petitioner has remained in custody for about six months. Recovery appears to be planted as Section 50 of the NDPS Act, 1985 has not been complied with. Reliance is placed upon judgment of the

191. Reliance has also been placed upon order dated 02.05.2013 passed in CRM-M-9180-2013 titled as ***Rajinder Singh @ Romi vs. State of Punjab*** and order dated 26.04.2013 passed in CRM-M-8759-2013 titled as ***Arashpreet Singh @ Mana vs. State of Punjab***.

On the other hand, counsel for U.T. Chandigarh submits that Section 50 of NDPS Act, 1985 could not be attracted in this case as it was a chance recovery. He relies upon order passed in ***State of H.P. vs. Sunil Kumar, 2014(4) SCC 780***.

A perusal of the FIR clearly establishes that the petitioner came into contact with the police party by chance. There was no prior information or any secret information available with the police regarding carriage of contraband. Thus, the ratio of ***Sunil Kumar (supra)*** is attracted in this case wherein it has been clearly mentioned that in case of chance recovery there is no possibility of attraction of Section 50 of NDPS Act, 1985. More than commercial quantity of contraband has been recovered from the petitioner and, thus, the provisions of Section 37 of the NDPS Act, 1985 are squarely attracted.

In view of the above, the petition is merit less and is accordingly, dismissed.

March 01, 2018
reena

[SUDHIR MITTAL]
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No