

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

CRM-M-5305 of 2018
Date of Decision: 28.02.2018

Jitender

....Petitioner

Versus

State of Haryana

....Respondent

CORAM:HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Mrigank Sharma, Advocate
for the petitioner.

Mr. Vikas Malik, DAG, Haryana.

MAHABIR SINGH SINDHU, J.(Oral)

The present petition has been filed under Section 439 of the Code of Criminal Procedure (Cr.P.C.) for grant of concession of regular bail to the petitioner in case First Information Report No.68 dated 07.03.2017 under Sections 20, 61 and 85 of the Narcotic Drugs and Psychotropic Substances Act, 1985 registered at Police Station Parao, District Ambala.

Learned counsel for the petitioner contended that the petitioner has been implicated in a false and fabricated case. It is further contended that no independent witness was joined by the Investigating Officer. It is further submitted that the alleged recovery of a plastic bag of Charas indicates that the Investigating Officer was having prior knowledge of the contraband in possession of the petitioner and this fact shows that the alleged recovery had been planted upon the petitioner. It is also contended that the police has violated the mandatory provisions of Section 50 of the Act.

Per contra, learned State counsel has stated that quantity of the contraband recovered from the petitioner being 1800 grams of Charas, he is not entitled to concession of anticipatory bail and there

is an embargo contained in Section 37 of the NDPS Act.

Heard learned counsel for the parties and perused the record.

Precisely, the accusation against the petitioner is that on 07.03.2017 in pursuance of a secret information was received by the police party headed by SI Baldev Singh while patrolling in the area of Railway Colony, Ambala Cantt that accused-Jitender has indulged himself in sale and purchase of Charas and he was going to DRM Colony, Ambala Cantt for selling Charas. On this, SI Baldev Singh telephonically informed Suresh Kumar DSP, Ambala and thereafter conducted nakabandi and apprehended the present petitioner. After serving notice under Section 50 of the Act and obtaining reply of the accused regarding his personal search, on instructions of DSP Suresh Kumar, he searched the bag carried by the accused and out of which 1800 grams Charas was recovered.

In view of the fact that the huge quantity of contraband has been recovered from the possession of the petitioner, he is not entitled to the concession of regular bail in view of the bar contained in Section 37 of the NDPS Act. Hence, the present petition is hereby dismissed.

[MAHABIR SINGH SINDHU]
JUDGE

February 28, 2018
rashmi

Whether speaking/reasoned	yes/no
Whether reportable?	yes/no