IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-54541-2018
Date of decision: 14.12.2018

Angrej Singh @ VCR **...Petitioner**

Versus

State of Punjab **...Respondent**

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Ms. Manjeet Kaur, Advocate for
Mr. A. S. Khosa, Advocate
for the petitioner.

Mr. Sidakmeet Sandhu, AAG, Punjab.

ARVIND SINGH SANGWAN, J. *(Oral)*

This petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 81 dated 31.07.2017, under Section 22 of the Narcotic Drugs & Psychotropic Substances Act, 1985 (Sections 379 and 411 of the IPC added later on), registered at Police Station Mehna, District Moga.

Learned counsel for the petitioner submits that as per the allegations in the FIR, ASI Surjit Singh apprehended the petitioner who was coming on a motorcycle and thereafter, on the basis of suspicion that the petitioner is carrying some narcotic substances, he gave a notice to the petitioner under Section 50 of the NDPS Act. Thereafter, the petitioner gave his consent and reposed confidence in ASI Surjit Singh and after preparing the consent memo, search of the petitioner was conducted by the same Investigating Officer.

Learned counsel for the petitioner further submits that even thereafter, no second Investigating Officer was called and the subsequent

Mohammad Waseem Ansari
2018.12.14 17:05
I attest to the accuracy and
authenticity of this document

investigation was also conducted by the same Investigating Officer. Therefore, it will be a debatable issue whether the judgment rendered by Hon'ble Supreme Court in ***Mohan Lal vs. State of Punjab, 2018 (3) Law Herald (P&H) 2397 (SC)*** will be applicable to the present case or not.

Learned counsel for the petitioner further submits that petitioner is in judicial custody since 31.07.2017 and till date, out of total 13 prosecution witnesses, only one witness has been examined. It is further submitted that petitioner is not involved in any other case under the NDPS Act.

Learned State counsel, on instructions from ASI Harjinder Singh and on the basis of the custody certificate, filed in Court today, has not disputed the factual position, however, submitted that petitioner is involved in one more FIR under Sections 395, 506, 342 and 120-B of the IPC. As per custody certificate, the petitioner is not involved in any other FIR under the NDPS Act.

I have heard learned counsel for the parties.

Without commenting upon the merits of the case, considering the fact that petitioner is in judicial custodial since 31.07.2017 and also in view of the submissions made by learned counsel for the petitioner; the instant petition is allowed. The petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

December 14, 2018 **(ARVIND SINGH SANGWAN)**
Waseem Ansari **JUDGE**

Whether speaking/reasoned *Yes/No*
Whether reportable *Yes/No*

Mohammad Waseem Ansari
2018.12.14 17:05
I attest to the accuracy and
authenticity of this document