

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

CRM-M-55893-2018
Date of decision: 21.12.2018

Surjit Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Vipul Jindal, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, 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. 187 dated 22.07.2018, registered under Sections 21 of the NDPS Act, 1985 at Police Station Gate Hakima, District Amritsar.

Learned counsel for the petitioner submits that as per the allegations in the FIR, the police, on seeing two persons coming on a scooter, signalled them to stop, however, the driver of the scooter tried to turn back and in that process, he fell down. Thereafter, the police apprehended two persons i.e. driver of the scooter Inderbir Singh @ Captain and petitioner Surjit Singh, who was the pillion rider.

Learned counsel for the petitioner further submits that thereafter, without following the procedure prescribed under Section 50 of

the NDPS Act and without giving any notice to be searched either before a Gazetted Officer or before a Magistrate, Investigating Officer ASI Parminder Singh conducted the personal search of both the accused persons and thereafter, he conducted the search of the scooter.

It is further submitted that from the personal search of the petitioner, an amount of Rs. 700/- was recovered and from the dicky of the scooter, which was being driven by co-accused Inderbir Singh @ Captain, 257 Grams of Heroin were recovered and thereafter, the same Investigating Officer conducted the further investigation and after taking into possession the contraband and scooter and arresting the petitioner, he sent the *ruqa* to the police station for registration of the FIR.

Learned counsel for the petitioner has, thus, argued that it will be a debatable issue whether the provisions of Section 50 of the NDPS Act were complied with or not and in the absence of second investigating officer, a legal and valid investigation was conducted or not.

Learned counsel for the petitioner further submitted that petitioner is in judicial custody for the last 04 months and 25 days and he is not involved in any other case.

Learned State counsel, on instructions from ASI Gurnam Singh and on the basis of the custody certificate, filed in Court today, has not disputed the factual position.

I have heard learned counsel for the parties.

Without commenting upon the merits of the case, considering the aforesaid 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 21, 2018

Waseem Ansari

**(ARVIND SINGH SANGWAN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No