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

CRM-M-1265 of 2019 (O&M)

Date of decision: September 17, 2019

Baljit Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Rishu Mahajan, Advocate for the petitioner.

Mr. H.S. Multani, AAG Punjab.

MAHABIR SINGH SINDHU, J (Oral)

Present petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 (for short 'Cr. P.C.') for grant of bail pending trial to the petitioner, in FIR No.03 dated 04.01.2017, under Sections 21/61 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'Act'), registered at Police Station Lopoke, District Amritsar.

As per prosecution case, 150 grams of intoxicant powder containing salt 'Diphenoxylate' was recovered from the conscious possession of the petitioner.

Contentends that the petitioner is in custody since 03.08.2018 and prior thereto, he was granted concession of interim bail w.e.f. 02.03.2017 upto 08.08.2018. Also contends that, in the present case, no offer in terms of Section 50 of the Act was given to the petitioner at the time of recovery by ASI Sawinderpal.

The above factual position is duly acknowledged by learned State counsel, on instructions from Assistant Sub Inspector Bakshish

Singh, but has opposed the bail.

Heard both sides and perused the paper-book.

Concededly, there was no offer at all made to the petitioner, in terms of Section 50 of the Act, at the time of recovery as is clear from the cross-examination of ASI Sawinderpal-PW2. Thus, the validity of the recovery of the contraband is a debatable issue in this case and the same would be a matter of trial. Therefore, taking into consideration this aspect of the matter as well as long custody period of the petitioner, this Court is inclined to grant him the concession of bail pending trial.

In view of the above, this petition is allowed. Petitioner is ordered to be released on bail, in this case, on his furnishing adequate bail bonds and surety bonds to the satisfaction of learned trial Court/Duty Magistrate concerned.

The above observations may not be construed as an expression of opinion on the merits of the case.

The petitioner shall fully co-operate with learned trial Court without seeking any unnecessary adjournments.

It is clarified, that in case there is a recurrence on the part of the petitioner, State of Punjab would be at liberty to move an application for recalling of this order.

(MAHABIR SINGH SINDHU)
JUDGE

September 17, 2019

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Whether speaking/ reasoned: Yes/No

Whether Reportable: Yes/No