

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-771-2019

Date of decision: 21.01.2019

Sukhraj Singh @ Kala

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Ashish Aggarwal, Advocate
for the petitioner.

Mr. M.S. Nagra, AAG, Punjab.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for grant of regular bail in FIR No.44 dated 04.07.2018 under Sections 21/29 of NDPS Act, registered at Police Station Khalra, District Tarn Taran.

Learned counsel for the petitioner submits that after the petitioner, along with two other persons namely Manga Singh and Ajay Pal Singh, was apprehended, complainant/ASI Gurcharan Singh recorded their non-consent memo that they want to be searched before a Gazetted Officer. It is further submitted that non-consent memo was a joint memo, on which the consent of all the three accused persons was taken.

Learned counsel for the petitioner further submits that when the DSP, Sub Division, Valtaha Camp and Bhikhiwind was called at the spot and even he recorded the consent memo, which was jointly signed by all the three

accused. In this regard, learned counsel relies upon a judgment of the Hon'ble Supreme Court in **State of Rajasthan Vs. Parmanand and another, 2014 (2) RCR (Criminal) 40** to submit that where a joint consent memo is recorded, it is not a valid offer as per Section 50 of the NDPS Act. Learned counsel has further submitted that the petitioner is in judicial lockup since 09.07.2018 and is not involved in any other case.

Learned State counsel, on instructions from ASI Hardeep Singh, could not dispute the factual position, however, he has submitted that challan stands presented, charges are yet to be framed and total 17 prosecution witnesses are nominated in the case.

Without commenting anything further on merits of the case, considering the aforesaid submissions made by learned counsel for the parties, this petition is allowed and the petitioner is directed to be released on regular bail subject to furnishing his bail/surety bond to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate.

Petition is disposed of.

[ARVIND SINGH SANGWAN]
JUDGE

21.01.2019

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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No