

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

CRM-M-5704-2019

Date of decision: 25.04.2019

Ajaypal Singh**...Petitioner****Versus****State of Punjab****...Respondent****CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN**

Present:- ASI Kashmir Singh.

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. 44 dated 04.07.2018, registered under Sections 21 and 29 of the NDPS Act, 1985 at Police Station Khalra, District Tarn Taran.

The petitioner has relied upon order dated 21.01.2019 passed by this Court in CRM-M-771-2019, wherein while granting regular bail to co-accused Sukhraj Singh @ Kala, the following order was passed:

“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.”

ASI Kashmir Singh, who is present in Court, submits that the case is still at the stage of start of recording statement of prosecution witnesses.

Without commenting upon the merits of the case, considering the fact that the petitioner is in judicial custody since 09.07.2018; co-accused has already been granted concession of regular bail as notice above and also in view of the fact that it will take a long time in conclusion of the trial, 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.

25.04.2019

Waseem Ansari

**(ARVIND SINGH SANGWAN)
JUDGE**

*Whether speaking/reasoned
Whether reportable*

*Yes/No
Yes/No*