

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

**CRM-M No.6117 of 2019
Decided on: 13.02.2019**

Amit Kumar Sidhu

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. S.S. Sandhu, Advocate for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

The petitioner prays for grant of regular bail under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.276 dated 05.12.2018, for offence punishable under Sections 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short 'the NDPS Act') and 52-A of the Prisons Act, 1894 registered at Police Station Kotwali, District Kapurthala.

Counsel for the petitioner has submitted that the petitioner is working as a Lab Technician, posted at Central Jail, Kapurthala and as per the allegations in the FIR, on 05.12.2018 when the petitioner was going to attend the duty, during his personal search 09 grams of intoxicant powder was recovered. It is further submitted that the search was conducted by Head Warder Sukhdev Singh, who was not competent to effect the recovery as per Section 50 of the NDPS Act. It is argued that the petitioner is not involved in any other case and the recovery is of non-commercial quantity.

Counsel for the petitioner has relied upon ***Inderjeet Singh***

@ *Laddi and others vs State of Punjab*, 2014 (3) RCR (Criminal)

953, to contend that till the report of the FSL is received, the petitioner be released on interim bail. Counsel for the petitioner has further submitted that the petitioner is not involved in any other case and till date, the report of the FSL/Chemical Examiner has not been received.

Counsel for the State, on instructions from HC Daljit Singh and on the basis of the Custody Certificate has not disputed the factual position and further submits that FSL report is still awaited.

In view of the judgment of this Court in *Inderjeet Singh @ Laddi's case (supra)*, wherein it has been held that awaiting the report of Chemical Examiner/FSL, the sentence of the petitioner can be suspended till receiving of such report.

Accordingly, this petition is allowed and the petitioner is directed to be released on interim bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate, till receiving of the FSL report.

The petitioner shall submit an undertaking before the trial Court/Illaqa Magistrate/Duty Magistrate along with his bail/surety bonds that he will surrender before the trial Court on receiving the FSL report.

However, it will be open for the prosecution to apply for cancellation of bail, if the petitioner is found involved misusing the concession of bail, in any manner.

(ARVIND SINGH SANGWAN)
JUDGE

13.02.2019

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Whether speaking/reasoned

Yes/No

Whether reportable:

Yes/No