

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

CRM-M-20839-2018
Date of decision: 30.01.2019

Jugraj Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. S. P. S. Sidhu, 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. 103 dated 10.05.2017, under Section 18/61/85 of the NDPS Act, registered at Police Station Sultanwind, Amritsar, District Amritsar.

Learned counsel for the petitioner submits that petitioner is a first offender and he is not involved in any other case. It is further submitted that petitioner is in judicial custody for the last more than 01 year and 08 months and the case is still at the stage of recording statement of prosecution witnesses and out of total 15 prosecution witnesses, statement of only two prosecution witnesses have been recorded.

Learned counsel for the petitioner has drawn attention to the consent memo, recorded by the investigating officer, wherein it is stated that petitioner was given offer to be searched either before him or before a

Gazetted Officer or before a Magistrate and similar offer was given by the Assistant Commissioner of Police (South), who was called at the spot when the petitioner gave non-consent memo to the Investigating Officer.

Learned counsel for the petitioner has, thus, argued that it will be a debatable issue whether putting up of such condition to the petitioner would amount proper compliance of Section 50 of the NDPS Act or not.

Learned State counsel has filed custody certificate and has not disputed the factual position. On instructions from ASI Nirmal Singh, learned State counsel has gone through the consent memo, recorded by the Investigating Officer as well as Assistant Commissioner of Police (South), wherein it is so recorded that an offer was given to the petitioner to be searched either before him (officer giving offer) or before a Gazetted Officer or before a Magistrate.

I have heard learned counsel for the parties.

Without commenting upon the merits of the case, considering the submissions of learned counsel for the petitioner and also keeping in view the custody period of the petitioner who is not involved in any other case, 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.

January 30, 2019

Waseem Ansari

**(ARVIND SINGH SANGWAN)
JUDGE**

*Whether speaking/reasoned
Whether reportable*

*Yes/No
Yes/No*