

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

**Crl. Misc. No.M-12696 of 2019 (O&M)
Date of Decision: August 16, 2019**

Harpal Singh @ Gopi

.....PETITIONER(s).

VERSUS

State of Punjab

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Amit Arora, Advocate
for the petitioner (s).

Mr. Avtar Singh Sandhu, Addl. A.G. Punjab

SURINDER GUPTA, J.(Oral)

The present petition has been filed under Section 439 Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 113 dated 16.10.2017 registered for the offence punishable under Section 22 of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short-NDPS Act), at Police Station Chohla Sahib, District Tarn Taran.

Heard.

Case of the prosecution, in brief, is that, petitioner was apprehended on 16.10.2017 by the police party headed by ASI Naresh Kumar, Incharge of Police Post Dehra Sahib, on the basis of suspicion. On his personal search, 1500 loose tablets of orange colour were recovered, out of which 10 tablets were sent to Forensic Science Laboratory and found to be that of 'Alprazolam'.

Learned counsel for the petitioner has argued that before search, petitioner was given option to get his search conducted from Magistrate/Gazetted Officer or Investigating Officer. The offer given was not in accordance with the provisions of Section 50 of NDPS Act.

Without expressing any opinion on merits of the case and keeping the question of option given under Section 50 NDPS Act, open to be decided by the trial Court to see as to whether the offer given by the Investigating Officer to get the search of petitioner conducted, was in accordance with the provisions of Section 50 of NDPS Act, this petition is allowed. Petitioner Harpal Singh @ Gopi is ordered to be released on regular bail on furnishing bail bond and surety bond to the satisfaction of concerned Chief Judicial Magistrate/Duty Magistrate, subject to following terms:-

- a. The petitioner shall comply with the conditions mentioned in Section 437(3) Cr.P.C.
- b. In the event of his absence on any date of hearing, the benefit of bail allowed to the petitioner shall stand withdrawn. The trial Court shall be competent to cancel his bail bond and surety bond and proceed to procure his presence in accordance with law. In that eventuality the petitioner shall have to apply for bail afresh.
- c. He shall not leave the country without prior permission of the Court.

August 16, 2019
Sachin M.

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No