

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

CRM No.M-35093 of 2018 (O&M)

Date of Decision: April 02, 2019

Des Raj

...Petitioner

VERSUS

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.L.S.Sekhon, Advocate
for the petitioner.

INDERJIT SINGH, J.

Petitioner has filed this second petition under Section 439 Cr.P.C. for grant of regular bail in case FIR No.320 dated 29.10.2017 under Sections 18, 21, 22 and 29 of the NDPS Act, registered at Police Station Sultanpur Lodhi, District Kapurthala.

Notice of motion.

Mr.Dhruv Dayal, Sr.DAG, Punjab, has put in appearance on behalf of the respondent-State and contested the petition.

I have heard learned counsel for the petitioner as well as learned State counsel and have gone through the record.

The perusal of the FIR shows that there was a secret information with the Investigating Officer of this case. As per prosecution version, raid was conducted in the house of the present petitioner at night

time. Learned counsel for the petitioner argued that compliance of

provisions of Section 42 of the NDPS Act have not been complied as secret information was not recorded in writing nor it was sent to the senior officer. He further argued that provision of Section 42 of the NDPS Act are mandatory in nature. Learned State counsel has not shown anything regarding compliance of Section 42 of the Act.

Though, recovery of the Alprazolam powder falls under commercial quantity but at the same time, there being no compliance of Section 42 of the NDPS Act, I find that petitioner is entitled to benefit of regular bail. Moreover, the petitioner has been in custody since 29.10.2017. He is not required for custodial interrogation as he is in judicial custody. The trial of the case will take long time. No useful purpose will be served by keeping the petitioner in custody till the disposal of the case.

Keeping in view the facts and circumstances of the present case, without discussing the facts in minute detail and without expressing any opinion on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing personal/surety bonds in the sum of ₹50,000/- with one surety in the like amount to the satisfaction of the trial Court/Duty Magistrate.

However, nothing stated above, shall constitute my opinion on merits of the case.

April 02, 2019
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No