

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

CRM-M No.18075 of 2019 (O&M)

Decided on: 30.04.2019

Sarabjeet Singh @ Sarbhi

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Deepak Aggarwal, Advocate for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for grant of regular bail to the petitioner under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.204 dated 16.09.2018, for offence punishable under Section 22 of the Narcotic Drug and Psychotropic Substances Act, 1985 (in short 'the NDPS Act') registered at Police Station Sangat, District Bathinda.

Counsel for the petitioner has relied upon the order dated 04.04.2019 passed by this Court in CRM-M No.14329 of 2019, vide which regular bail has been granted to the co-accused of the petitioner namely Rattan Singh. The operative part of the order dated 04.04.2019 reads as under:-

“...Counsel for the petitioner has submitted that as per the allegations in the FIR, the Investigating Officer i.e. ASI Dilbag Singh stopped a motorcycle, on which 03 persons were riding and immediately, they tried to turn back, however, the motorcycle slipped and fell down and in the meantime, a black polythene kept between them had

also fallen on the earth and intoxicant tablets mark TRICARE-SR100 MG and TRIO-SR-100 MG are visible. On enquiry, the driver of the motorcycle told his name as Rattan Singh and other 02 persons disclosed their names as Gurpal Singh @ Gopal and Sarabjit Singh @ Sarabi. The Investigating Officer on opening the polythene bag effected the recovery of 99 strips of TRICARE-SR100 MG consisting of 10 tablets, total 990 tablets and 29 strips of TRIO-SR-100 MG consisting of 10 tablets, total 290 tablets.

Counsel for the petitioner has further submitted that, in fact, it is a case where no notice as per Section 50 of the NDPS Act was given despite the fact that the complainant has stated in the FIR that he has doubt about the intoxicant tablets in the polythene bag and the complainant and the Investigating Officer was the same person.

*Counsel for the petitioner has, thus, submitted that it will be a debatable issue to be decided during the course of trial whether as per the guidelines given by the Hon'ble Supreme Court in “**Varinder Kumar vs State of Himachal Pradesh**”, decided on 11.02.2019 passed in **Criminal Appeal No.2450-51 of 2010**, present case falls in the criteria given or not. It is further submitted that the petitioner is not involved in any other NDPS Act and he is in custody for the last 06 months and 16 days; the investigation is complete and the conclusion of the trial will take some time.*

Counsel for the State, on instructions from ASI Rattan Singh, has not disputed the factual position but opposed the prayer for bail.

Without commenting anything on merits of the case, considering the fact that the petitioner is not involved in any other NDPS Act and he is in custody for the last 06

months and 16 days; the investigation is complete and the conclusion of the trial will take some time, this petition is allowed and the petitioner is directed to be released on bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate.

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

Counsel for the State, on instructions from ASI Dilbagh Singh, has not disputed the factual position but opposed the prayer for bail.

Without commenting anything on merits of the case, considering the fact that the co-accused of the petitioner has already been granted the concession of regular bail vide order dated 04.04.2019 passed in CRM-M No.14329 of 2019 and conclusion of the trial is likely to take some time, this petition is allowed and the petitioner is directed to be released on bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate.

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

(ARVIND SINGH SANGWAN)
JUDGE

30.04.2019

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Whether speaking/reasoned

Yes/No

Whether reportable:

Yes/No