

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

**CRM-M-19468-2019
Date of decision: 19.12.2019**

Rina Dass

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Yashpal Thakur, Advocate
for the petitioner.

Mr. Jagmohan Ghuman, 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. 175 dated 02.09.2018, registered under Section 18 of the Narcotic Drugs & Psychotropic Substances Act, 1985 and Sections 472, 473 of the IPC (added later on) at Police Station Mandi Gobindgarh, Tehsil and District Fatehgarh Sahib.

Learned counsel for the petitioner submits that while issuing notice under Section 50 of the NDPS Act, a joint offer was given to the accused and thereafter, a joint consent memo was prepared.

It is further submitted that in the judgment “*State of Rajasthan vs Parmanand and another*”, 2014(2) RCR (Criminal) 40, it has been held by the Hon'ble Supreme Court that considering the stringent provisions under the NDPS Act, the right available to an accused person under Section 50 of the NDPS Act, to be searched before a Gazetted Officer or a Magistrate, will be frustrated in case clear, unambiguous and individual

offer is not given to the accused person. It is further held that joint communication of a right may not be clear or unequivocal as it may create confusion and may result in diluting the right.

Learned counsel for the petitioner further submits that petitioner is in judicial custody since 15.09.2018 and she is not involved in any other case.

Learned State counsel filed custody certificate which is taken on record. As per custody certificate, the petitioner is not involved in any other case.

Learned State counsel, on instructions from ASI Budh Singh, submits that out of total 13 prosecution witnesses, 03 witnesses have been examined so far.

I have heard learned counsel for the parties.

Without commenting upon the merits of the case, considering the fact that the petitioner is in judicial custody since 15.09.2018; she is not involved in any other case; conclusion of trial is likely to take some time and also in view of the judgment in ***Parmanand' case (supra)***, the instant petition is allowed. The petitioner is ordered to be released on regular bail on her furnishing bail/surety to the satisfaction of the trial Court/Duty Magistrate concerned.

19.12.2019

Waseem Ansari

**(ARVIND SINGH SANGWAN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No