

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.40501 of 2018
Decided on: 26.03.2019

Inderpreet Singh @ Captain @ Inderbeer Singh

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Rishu Mahajan, Advocate
for the petitioner.

Mr. Sidakmeet Singh Sandhu, AAG, 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.187 dated 22.07.2018, for offence punishable under Section 21 of the Narcotic Drug and Psychotropic Substances Act, 1985 (in short 'the NDPS Act'), registered at Police Station Gate Hakima, District Amritsar.

Counsel for the petitioner has submitted that while granting regular bail to co-accused of the petitioner namely Sarabjit Singh, vide order dated 21.12.2018, the following order was passed in CRM-M No.55893 of 2018:-

“...Learned counsel for the petitioner submits that as per the allegations in the FIR, the police, on seeing two persons coming on a scooter, signalled them to stop, however, the driver of the scooter tried to turn back and in that process, he fell down. Thereafter, the police apprehended two persons i.e. driver of the scooter

Inderbir Singh @ Captain and petitioner Surjit Singh, who was the pillion rider.

Learned counsel for the petitioner further submits that thereafter, without following the procedure prescribed under Section 50 of the NDPS Act and without giving any notice to be searched either before a Gazetted Officer or before a Magistrate, Investigating Officer ASI Parminder Singh conducted the personal search of both the accused persons and thereafter, he conducted the search of the scooter.

It is further submitted that from the personal search of the petitioner, an amount of Rs. 700/- was recovered and from the dicky of the scooter, which was being driven by co-accused Inderbir Singh @ Captain, 257 Grams of Heroin were recovered and thereafter, the same Investigating Officer conducted the further investigation and after taking into possession the contraband and scooter and arresting the petitioner, he sent the ruqa to the police station for registration of the FIR.

Learned counsel for the petitioner has, thus, argued that it will be a debatable issue whether the provisions of Section 50 of the NDPS Act were complied with or not and in the absence of second investigating officer, a legal and valid investigation was conducted or not.

Learned counsel for the petitioner further submitted that petitioner is in judicial custody for the last 04 months and 25 days and he is not involved in any other case.

Learned State counsel, on instructions from ASI Gurnam Singh and on the basis of the custody certificate, filed in Court today, has not disputed the factual position.

I have heard learned counsel for the parties.

Without commenting upon the merits of the case, considering the aforesaid submissions made by learned counsel for the petitioner, 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.”

Counsel for the petitioner has further submitted that the case of the petitioner is also on the similar footing as of his co-accused.

Counsel for the State, on instructions from ASI Sushil Kumar, 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 namely Surjit Singh has already been granted the concession of regular bail by this Court; the petitioner is in custody since 22.07.2018 and it will take some time in conclusion of the trial, 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/Illaq 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

26.03.2019
yakub

Whether speaking/reasoned	Yes/No
Whether reportable:	Yes/No