

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

**CRM-M-23478-2019
Date of decision: 29.10.2019**

Gurpreet Singh @ Sony

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Deepak Gupta, Advocate for
Mr. N. S. Swaitch, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, 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. 0017 dated 15.02.2019, registered under Section 22 of the Narcotic Drugs & Psychotropic Substances Act, 1985 (*for short 'NDPS Act'*) at Police Station Malaoud, District Ludhiana.

Learned counsel for the petitioner submits that petitioner is a first offender; he is in judicial custody since 16.02.2019; challan stands presented and conclusion of the trial is likely to take a long time.

Learned counsel for the petitioner further submits that though as per the allegations in the FIR and report of the FSL, the salt found in the recovered tablets is *Dyphenoxylate Hydorchloride*, however, the Investigating Officer has not followed the proper procedure during investigation.

Learned counsel for the petitioner further submits that the

present FIR was registered on the basis of a secret information and thereafter, when the petitioner was apprehended, he was given a notice under Section 50 of the NDPS Act, in which he was informed that he has a right to be searched either before him or a Gazetted Officer or a Magistrate and thereafter, no Gazetted Officer was called at the spot.

Learned State counsel, on instructions from ASI Karnail Singh, submits that recovery of 1400 intoxicant tablets was made from the petitioner, however, he could not dispute the fact that proper procedure under Section 50 of the NDPS Act was not followed during investigation.

Learned State counsel further submits that though the charges have been framed, however, no prosecution witness has 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 16.02.2019; he is not involved in any other case and also in view of the fact that learned counsel for the petitioner has raised some legal proposition which are to be decided during the course of trial, 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.

29.10.2019

Waseem Ansari

**(ARVIND SINGH SANGWAN)
JUDGE**

*Whether speaking/reasoned
Whether reportable*

*Yes/No
Yes/No*