

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

CRM-M No.49460 of 2018 (O&M)

Decided on: 30.04.2019

Lakhvir Singh

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Sanjeev Manhas, 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.63 dated 03.05.2018, for offence punishable under Sections 22 and 29 of the Narcotic Drug and Psychotropic Substances Act, 1985 (in short 'the NDPS Act') registered at Police Station Barnala, District Barnala.

Counsel for the petitioner has submitted that as per the allegations in the FIR, the police party on suspicion has apprehended one person namely Baldev Singh and after he was given a right to be searched before the Gazetted Officer or a Magistrate, he reposed confidence in the Investigating Officer and thereafter, on his personal search, 120 tablets of Alprazolam was recovered.

Counsel for the petitioner has further submitted that thereafter, he was arrested and on the next day i.e. 04.05.2018, his

disclosure statement was recorded, in which he has named the petitioner and thereafter, he Investigating Officer arrested the petitioner from a bus-stand and after his arrest, again the disclosure statement of the petitioner was recorded in which he has stated that he has concealed 2200 intoxicated tablets in the straw room of his house and he can get it recovered. Counsel for the petitioner has, thus, argued that the co-accused of the petitioner namely Baldev Singh has already been granted the concession of bail by the trial Court. It is also submitted that it will be a debatable issue to be decided during the course of trial as to whether non-compliance of Section 50 of the NDPS Act will affect the right of the petitioner as the recovery was effected without following the proper procedure. It is further submitted that the petitioner is not involved in any other case.

Counsel for the State, on instructions from SI Kaur Singh, has not disputed the factual position but opposed the prayer for bail. it is further submitted that the case is at the stage of recording the evidence of prosecution witnesses.

Without commenting anything on merits of the case, considering the fact that the petitioner is in custody since 04.05.2018; the co-accused of the petitioner has already been granted the concession of bail by the trial Court; he is not involved in any other case 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/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

30.04.2019
yakub

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