

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-24763-2019 (O&M)
Date of Decision:-8.7.2019

Amandeep Singh

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Amaninder Preet, Advocate for the petitioner.

Ms. Amarjit Kaur Khurana, Deputy Advocate General, Punjab.

GURVINDER SINGH GILL, J.(Oral)

The petitioner has approached this Court seeking grant of regular bail in respect of a case registered vide FIR No.43 dated 13.7.2018 registered at Police Station Vairo Ke, District Fazilka under Sections 22 of Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as 'the NDPS Act').

It is the case of prosecution that on 13.7.2018 during the course of patrolling and checking, the police came across a clean shaven person, who upon noticing the police party, tried to turn and move towards the village. The said person was apprehended on the basis of suspicion and upon inquiry he disclosed his name as Amandeep Singh (petitioner). An offer in terms of Section 50 of NDPS Act was extended to him and search of the bag carried by the petitioner yielded recovery of 810 tablets of 'TRIESR' containing tramadol.

The learned counsel for the petitioner has submitted that in the present case, the offer extended to the petitioner is defective inasmuch as while extending the offer in terms of Section 50 of the NDPS Act, the petitioner was asked as to whether he seeks to be searched in the presence of a 'Gazetted Officer of Police Department' or a 'Magistrate'.

Opposing the petition, the learned State counsel has submitted that since it was a case of 'chance recovery', Section 50 of the NDPS Act, in any case, will not be applicable and that the offer as extended would meet the requirements of Section 50 of the NDPS Act.

Having considered rival submissions addressed before this Court and while noticing that the offer in respect of search before a 'Gazetted Officer' has been restricted to the Gazetted Officer of Police Department only, it will certainly be debatable as to whether such an offer is a valid and would meet the requirement of Section 50 of the NDPS Act.

Without commenting anything on the merits of the case, the petition is accepted and the petitioner Amandeep Singh is ordered to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

It is, however, made clear that none of the observations made above shall be construed to be an expression on merits of the main case.

The petition stands accepted accordingly.

8.7.2019

pankaj

Whether speaking /reasoned

Whether Reportable

Yes / No

Yes / No

(Gurvinder Singh Gill)
Judge