

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

**CRM-M No.24754 of 2019
Decided on: 16.08.2019**

Jashandeep Singh @ Sunny Bandi

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. PKS Phoolka, dvocate
for the petitioner.

Mr. Jagmohan Ghumman, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

The petitioner prays for grant of regular bail in FIR No.250 dated 18.10.2018, registered under Section 22/61/85 of the NDPS Act at Police Station Civil Lines Bathinda, District Bathinda.

On 05.07.2019, the following order was passed by this Court:-

“Learned counsel for the petitioner relies upon the order dated 13.05.2019 passed in CRM-M-18026-2019, vide which co-accused of the petitioner namely Gurdev Singh Sandhu @ Baba has been granted the concession of regular bail, by passing the following order: -

“Learned counsel for the petitioner submits that as per allegations in the FIR, the Investigating Officer/SI Gurdarshan Singh had stopped a car, which was driven by petitioner Gurdev Singh Sandhu @ Babba and co-accused Jasandeep Singh @ Sunny Bandi was sitting on the adjacent seat. It

*is further stated that thereafter, the Investigating Officer gave a joint offer to both the accused, which is not in accordance with the law laid down by the Hon'ble Supreme Court in **State of Rajasthan Vs. Parmanand and another, 2014 (2) RCR (CrL) 40**. It is also submitted that though a Gazetted Officer was called at the spot, however, no second Investigating Officer was called and the entire investigation was conducted by the same officer and therefore, in view of judgment of the Hon'ble Supreme Court in **Mohan Lal Vs. State of Punjab, 2018 (4) RCR (CrL) 101**, it will be a debatable issue during the trial whether the proper procedure was allowed or not.*

*Learned counsel for the petitioner has further referred to the judgment dated 11.02.2019 passed in **Criminal Appeal Nos.2450-2451 of 2010 (Varinder Kumar Vs. State of Himachal Pradesh)**, wherein the Hon'ble Supreme Court has clarified that all the pending criminal prosecutions, trials and appeals prior to the law laid down in **Mohan Lal's case (supra)** shall continue to be governed by the individual facts of the case. It is thus argued that the present FIR has been registered after rendering the judgment by the Hon'ble Supreme Court in **Mohan Lal's case (supra)** and therefore, it will be covered by the same, in view of clarifications given in **Varinder Kumar's case (supra)**. Learned counsel further submits that the petitioner is in custody since 21.10.2018; he is first offender and is not involved in any other case.*

Learned State counsel, on the basis of custody certificate, could not dispute the factual position, however, submitted that non-consent memos were

prepared separately and a Gazetted Officer was called at the spot before conducting the search.”

Learned counsel for the petitioner submits that co-accused Gurdev Singh Sandhu @ Baba was driver of the vehicle, whereas the petitioner was sitting in the car.

List again on 16.08.2019.

In the meantime, petitioner is directed to be released on interim bail subject to furnishing his bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate.

The Senior Superintendent of Police, Bathinda is directed to remain present before this Court on the next date of hearing along with his affidavit about the manner, in which the investigation has been conducted despite the directions given and orders passed by this Court.

In response to the aforesaid order, counsel for the State has filed the affidavit of Dr. Nanak Singh, Senior Superintendent of Police, Bathinda and as per the said affidavit, a departmental action has been taken against ASI Gurdarshan Singh, the Investigating Officer of the case, for not following the proper procedure as per the guidelines given by the Hon'ble Supreme in **“Mohan Lal vs State of Punjab”** passed in **Criminal Appeal No.1880 of 2011**, decided on 16.08.2018. It is further stated in the affidavit that all the Investigating Officers in Police District Bathinda, have been instructed to follow the proper procedure as per the NDPS Act.

Considering the contents of the affidavit and also noticing the fact that the co-accused of the petitioner Gurdev Singh Sandhu @ Baba, has already been granted the concession of regular bail, this petition is allowed and the order dated 05.07.2019, granting interim bail

to the petitioner is made absolute.

Disposed of.

(ARVIND SINGH SANGWAN)
JUDGE

16.08.2019

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Whether speaking/reasoned

Yes/No

Whether reportable:

Yes/No