

230

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

CRM-M-29981 of 2019

Date of decision: July 22, 2019

Gurdip Singh alias Gurdeep @ Ganja

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. B.S. Jaswal, Advocate for the petitioner.

Mr. Saurav Khurana, DAG Punjab.

MAHABIR SINGH SINDHU, J (Oral)

Present petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 (for short 'Cr. P.C.') for grant of bail to the petitioner, in FIR No.91 dated 27.06.2019, under Section 21 of Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station City Batala, Police District Batala, District Gurdaspur.

As per prosecution case, 7 gram of Heroin was recovered from the possession of the petitioner.

Contentends that petitioner is in custody since 27.06.2019 and there is no other criminal case pending against him. Also contentends that as per prosecution version, recovery was effected by ASI Baldev Singh, but no offer was made to the petitioner to be searched in the presence of any Magistrate or Gazetted Officer.

The above factual position is duly acknowledged by learned State counsel, on instructions from Head Constable Davinder Singh.

Heard both sides and perused the paper-book.

Recovery of alleged contraband, i.e. 7 gram of Heroin was effected by ASI Baldev Singh and the petitioner was not given the offer to be searched in the presence of any Magistrate or Gazetted Officer. Thus, *prima-facie*, there seems to be non-compliance of Section 50 of NDPS Act. Since the petitioner is in custody since 27.06.2019 and concededly, there is no other criminal case pending against him; as such, his further incarceration would not serve any useful purpose.

In view of the above, this petition is allowed. Petitioner is ordered to be released on bail, in this case, on his furnishing adequate bail bonds and surety bonds to the satisfaction of learned trial Court/Duty Magistrate concerned.

The above observations may not be construed as an expression of opinion on the merits of the case.

The petitioner shall fully co-operate with learned trial Court without seeking any unnecessary adjournments. It is clarified that in case, there is recurrence on his part, State would be at liberty to move an application for recalling of this order.

(MAHABIR SINGH SINDHU)
JUDGE

July 22, 2019

mahavir

Whether speaking/ reasoned: Yes/No

Whether Reportable: Yes/No