

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

**CRM-M-32537-2019
Date of decision: 06.08.2019**

Parveen Kumar @ Peenu

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- None.

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. 176 dated 05.11.2018, registered under Section 22 of the Narcotic Drugs & Psychotropic Substances Act, 1985 at Police Station Goraya, District Jalandhar.

Since the Bar has abstained from work today, there is no appearance from either of the parties.

As per the allegations in the FIR, on 05.11.2018, the police party apprehended the petitioner on suspicion and during that process, the petitioner who was carrying a red color polythene threw the same on the earth. Later on, IO/ASI Atamjit Singh asked the petitioner to pick up the said poletene and prior to searching the same, the police tried to join a witness from the public but no one was ready. Thereafter, the Investigating Officer checked the polythene and 36 syrups of *Avil* each containg 10 ML and 30 injections of *Buprenorphine* each containing 2 ML were recovered, which were kept in separate parcels and were sealed with the seal "AS" and thereafter, the case property was taken in police custody by preparing a

memo. Thereafter, the Investigation Officer sent a *ruqa* to the police station concerned.

A perusal of the challan, filed with this petition, shows that after the FIR was registered, the same Investigating Officer conducted the further investigation and produced the petitioner and the case property before the SHO and no second Investigating Officer was called.

Moreover, from a bare perusal of the FIR, it will be a debatable issue to be decided during trial whether the provisions of Section 50 of the NDPS Act were complied with or not and whether the investigation was completed in a legal manner in the absence of a second Investigating Officer.

A perusal of the custody certificate, sent by the Superintendent, Central Jail, Kapurthala, shows that the petitioner is in judicial custody for the last nine months and he is not involved in any other case.

Therefore, without commenting upon the merits of the case, considering the facts that the petitioner is in judicial custody for the last nine months; he is not involved in any other case; challan stands presented and also in view of the fact that there are certain moot points which will 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.

06.08.2019

Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No