

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

**CRM-M-34027-2019
Date of decision: 07.11.2019**

Jadda Singh @ Jassa

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Gurpal Singh Sandhu, Advocate
for the petitioner.

Mr. Jagmohan Ghuman, DAG, Punjab.

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. 19 dated 11.02.2019, registered under Sections 21 and 22 of the Narcotic Drugs & Psychotropic Substances Act, 1985 at Police Station Nihal Singh Wala, District Moga.

On 18.09.2019, the following order was passed:

“Learned counsel for the petitioner submits that as per the allegations in the FIR, Inspector Surjit Singh, along with police party, was present at Palm City Colony for patrolling and they saw two persons coming on a motorcycle. On seeing the police party, the aforesaid persons became perplexed and tried to turn back the motorcycle, however, they were apprehended by the police party. Thereafter, the driver of the motorcycle disclosed his name as Jadda Singh @ Jassa (petitioner herein) and the pillion rider disclosed his name as Joti Singh. Thereafter, on suspicion, Inspector Surjit Singh gave them a joint offer to be searched either before a

Gazetted Officer or a Magistrate, upon which, both of them, stated that they have faith on him and search can be conducted by Inspector Surjit Singh. On search, 1000 tablets of *Alprawin 0.5 mg* along with 03 grams of Heroin were recovered from the petitioner and from co-accused Joti Singh, 200 tablets of *Alprawin 0.5 mg* along 03 grams of Heroin were recovered. Thereafter, the same Investigating Officer completed the investigation and arrested both the accused persons.

Though this Court has given various directions from time to time to comply with the mandatory provisions of NDPS Act while conducting investigation under the NDPS Act, yet, on the face of it, even the notice given to the accused persons under Section 50 of the Act appears to be defective and even no second investigating officer was called at the spot as Inspector Surjit is the complainant as well as the investigating officer himself.

Adjourned to 22.10.2019.

The Senior Superintendent of Police, Moga is directed to verify the investigation conducted in the present case and file an affidavit in this regard on or before the next date of hearing.

As per custody certificate, filed today in Court, the petitioner is in judicial custody since 12.02.2019 and he is not involved in any other case.

Till the next date of hearing, the petitioner is ordered to be released on interim bail, subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.”

In compliance with the aforesaid order, the affidavit filed by the Senior Superintendent of Police, Moga is on record and as per the same, it was found that Inspector/IO Surjit Singh has not complied with the

provisions of Section 50 of the NDPS Act during investigation and, therefore, a department proceeding has been initiated against him.

In view of the same, the present petition is allowed and the order dated 18.09.2019, granting interim bail to the petitioner, is made absolute.

07.11.2019
Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No