

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

**CRM No. 33156 of 2019 in/and  
CRM-M-37896 of 2019  
Date of Decision: 29.10.2019**

Ravi Anil @ Anil Kumar

....Petitioner

**VERSUS**

State of Punjab

....Respondent

**CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA**

Present: Mr. Sahil Puri, Advocate  
for the petitioner.

Mr. Avtar Singh Sandhu, Addl. A.G. Punjab.

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**SURINDER GUPTA, J.(Oral)**

**CRM No. 33156 of 2019**

Application is allowed as prayed for and copy of challan is taken on record as Annexure P-5, subject to all just exceptions.

**CRM-M-37896-2019**

The present petition has been filed under Section 439 Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No.59 dated 15.07.2018 registered for the offence punishable under Section 22 of Narcotic Drugs and Psychotropic Substances Act, 1985, at Police Station Begowal, District Kapurthala.

Heard.

As per case of prosecution, 150 gms. of narcotics (Alprazolam) was recovered from the petitioner, when he was apprehended on 15.07.2018 by police party headed by ASI Sukhwinder Singh of Police Station Begowal, District Kapurthala. A Deputy Superintendent of Police was

called to the spot, who after giving his introduction gave option to petitioner

and his co-accused vide consent memo (Annexure P-4) that their search is to be conducted and they have right to get their search conducted before any Magistrate.

Learned counsel for the petitioner submits that offer given is defective as no joint offer could be given. Secondly, the petitioner was not given the option to get his search conducted before some gazetted officer.

Learned State counsel on instructions from ASI Balkar Singh submits that the offer was given jointly but the compliance of provisions of Section 50 of NDPS Act can be seen at the time of final arguments and not at this stage when the petitioner is seeking bail.

The question before the trial Court will be to see the validity of offer given to the petitioner and to see as to whether offer given to get the search conducted only before Magistrate without apprising him of his right that his search can also be conducted before a gazetted officer and joint offer to all the accused is valid one, is to be determined at the time of final disposal of the case and compliance of provisions of Section 50 of NDPS Act will be an arguable point before the Court in the facts and circumstances of the case.

In view of above but without expressing any opinion on merits of the case and keeping in view the fact that conclusion of trial will take considerably long time, the present petition is allowed. Petitioner-Ravi Anil @ Anil Kumar is ordered to be released on regular bail on furnishing bail bond and surety bond to the satisfaction of concerned trial Court/Chief Judicial Magistrate/Duty Magistrate, subject to following terms:-

- (a) The petitioner shall comply with the conditions mentioned in Section 437(3) Cr.P.C.

- (b) In the event of his absence on any date of hearing, the benefit of bail allowed to the petitioner shall stand withdrawn. The trial Court shall be competent to cancel his bail bond and surety bond and proceed to procure his presence in accordance with law. In that eventuality the petitioner shall have to apply for bail afresh.
- (c) He shall not leave the country without the previous permission of the Court.

**October 29, 2019**  
**jk**

**( SURINDER GUPTA )**  
**JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No