

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

CRM-M-43380-2019

Date of Decision : November 21, 2019

Sidharth		Petitioner
	Versus	
State of Punjab		Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Prateek Pandit, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

This is the first petition filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in FIR No. 19 dated 29.3.2018 under Section 22 of the NDPS Act, registered at Police Station Sadar Rajpura, District Patiala.

Counsel for the petitioner submits that as per the allegations in the FIR registered at the instance of ASI Surinder Pal Singh, while on patrol duty, he along with his co-officials noticed that two clean shaven persons has departed from bus and were holding strings of a black bag. They started walking backwards and on suspicion, the SI, along with his police officials, apprehended them and enquired their names. Both of them disclosed their names as Naresh Kumar and Sidharth (petitioner). Thereafter, both of them were given a notice to be searched before a Magistrate or a Gazetted Officer and they stated that they want to be searched before a Gazetted Officer and upon this a joint non-consent memo of petitioner Sidharth

and Naresh Kumar was prepared and, thereafter the recovery was effected. Counsel for the petitioner also argued that recording of a joint-non-consent memo is not the correct procedure as per the judgment of Hon'ble the Supreme Court in '*State of Rajasthan Vs. Parmaand and another*', 2014(2) *RCR (Crl.)* 40.

Learned State counsel has filed the affidavit of the Senior Superintendent of Police, Patiala, along with the consent memo dated 29.3.2018, which show that it is joint consent memo. In the affidavit it is stated that it is a procedural lapse on the part of the Investigating Officer as the consent memo should have been prepared independently.

Without commenting anything on the merits of the case; after hearing counsel for the petitioner as well as the learned State counsel; considering the fact that the petitioner is not involved in any other case and is in custody since 28.3.2018 and out of 10 only 04 witnesses have been examined, this petition is allowed and the petitioner is directed to be released on regular bail, subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Illaqa Magistrate, concerned.

However, it will be open for the prosecution to apply for cancellation of bail of the petitioner, in case he is found involved in any other case or misusing the concession of bail, in any manner.

(ARVIND SINGH SANGWAN)
JUDGE

November 21, 2019
satish

Whether speaking/reasoned : YES / NO
Whether reportable : YES / NO