

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

**CRM-M No. 47559 of 2019
Date of Decision:-18.11.2019**

MANI

.....Petitioner

V/S

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr.J.S.Thakur, Advocate
for the petitioner.

Mr. Sandeep Singh Deol, D.A.G. Punjab.

ARUN KUMAR TYAGI,J. (ORAL)

The present petition has been filed under Section 439 of Code of Criminal Procedure for grant of regular bail in case FIR No. 160 dated 13.09.2019 under Section 22 of the NDPS, 1985 and 25 of the Arms Act 1959 registered at Police Station Adampur Jalandhar, District Jalandhar Rural.

Reply by way of affidavit of Ankur Gupta, IPS, Assistant Superintendent of Police, Sub-Division Adampur filed today in the Court on behalf of respondent-State which is taken on record. Copy supplied to the counsel for the petitioner.

Learned Counsel for the petitioner has argued that the petitioner was not arrested on the spot, no recovery was made from him and he was not named in the FIR. He has been implicated only on the basis of

disclosure statement made by co-accused Sanjeev Kumar and Vijay Kumar from whose possession recovery of 980 tablets containing 105.84 grams of Alprazolam was made. Disclosure statement of the co-accused does not constitute substantive evidence against the petitioner and there is no other material to sustain the allegation of his complicity in the crime. In support of his argument, learned Counsel for the petitioner has placed reliance on judgment of Hon'ble Supreme Court in “***Surinder Kumar Khanna Vs. Intelligence Officer Directorate of Revenue Intelligence:2018(3) R.C.R (Criminal) 954.***”

On the other hand, learned State Counsel has argued that the petitioner is accused of having abetted the commission of offence or being a party to criminal conspiracy to commit the offence. However, learned State Counsel has conceded that the petitioner is not involved in any other case under the NDPS Act.

Keeping in view the facts and circumstances of the case that the petitioner has been implicated on the basis of disclosure statements of co-accused, no recovery has been made from him and there is no other material regarding his complicity and the fact that he is not involved any other case under the NDPS Act which by implication satisfies both the conditions of Section 37 (1) (b) of the NDPS Act but without expressing any opinion on merits of the case, I am of the considered view that the petitioner deserves the concession of regular bail. Therefore, the petition is allowed and the petitioner is ordered to be released on bail on furnishing of bail bonds to the satisfaction of Trial Court. However, in case of commission of any offence under the provisions of NDPS Act by the petitioner in future, his bail in the

present case shall also be liable to be cancelled on filing of application in this regard.

18.11.2019
Rajeev (rvs)

(ARUN KUMAR TYAGI)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No