

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

**CRM-M No.61999 of 2018
Decided on: 26.03.2019**

Jatinder Vashisht

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. I.P.S. Kohli, Advocate
for the petitioner.

Mr. Sidakmeet Singh Sandhu, AAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for grant of regular bail to the petitioner under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.295 dated 01.11.2018, for offence punishable under Section 22 of the Narcotic Drug and Psychotropic Substances Act, 1985 (in short 'the NDPS Act'), registered at Police Station City Kharar, District S.A.S. Nagar, Mohali.

Counsel for the petitioner has submitted that as per the allegations in the FIR, the petitioner was apprehended around 05:00 PM and thereafter, he was given a notice under Section 50 of the NDPS Act giving an offer to him to be searched before the Gazetted Officer or the Magistrate. It is further submitted that the Investigating Officer, thereafter, recorded the consent of the petitioner wherein he reposed confidence in the Investigating Officer for conducting the search and

thereafter, the search of the petitioner was conducted in which 08 bottles of Codectuss 100 ml each and 45 strips containing 20 tablets each of LOMOTIL (total 900 tablets) were recovered.

Counsel for the petitioner has further submitted that, in fact, no written notice under Section 50 of the NDPS Act was given and only a consent memo was recorded. It is also submitted that a perusal of the ruqa sent to the Police Station show that the same was received at 06:00 PM and thereafter, the FIR was registered whereas in the ruqa, it is mentioned that the recovery already stands effected from the petitioner and therefore, there is no explanation as to how the FIR number is mentioned in the recovery memo before sending the report.

Counsel for the petitioner has further argued that the petitioner is a first offender and he is not involved in any other case and he is in custody since 01.11.2018 and conclusion of the trial will take some time.

Counsel for the State, on instructions from ASI Harjit Singh, has not disputed the factual position but opposed the prayer for bail.

Without commenting anything on merits of the case, considering the fact that the petitioner is the first offender; he is not involved in any other case and conclusion of the trial is likely to take some time, this petition is allowed and the petitioner is directed to be released on bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate.

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

26.03.2019

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