

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

CRM-M-8311-2019

Date of decision: **27.08.2020**

JAGTAR SINGH @ JAGGA

.....Petitioner

Versus

STATE OF PUNJAB

.....Respondent

CORAM : HON'BLE MR.JUSTICE GURVINDER SINGH GILL

Present: Mr. Amit Arora, Advocate
for the petitioner.

Mr. H.S. Sitta, AAG, Punjab.

(Proceedings conducted through video conferencing).

GURVINDER SINGH GILL, J. (ORAL)

1. The petitioner seeks grant of regular bail in a case registered against him vide FIR No.119 dated 26.10.2017 under Section 21 of NDPS Act (Section 411 IPC and Section 25 Arms Act added later on) at Police Station Chohla Sahib, District Tarn Taran.
2. The allegations in nut-shell are to the effect that on 26.10.2017 when the police party was patrolling in the area of Chohla Sahib and had raised 'Nakkabandi' over the bridge on the drain of village Lohar, then a red coloured motorcycle was seen coming on which two persons were riding. When the police party signalled the motorcyclists to stop, the said motorcyclists tried to run away. The police was however able to nab the driver of the motorcycle who disclosed his name as Jagtar Singh and

personal search of aforesaid Jagtar Singh yielded recovery of 290 grams of '*Heroin*' from the right pocket of his '*Kurta*'.

3. The learned counsel for the petitioner has submitted that he has falsely been implicated in the present case and that in any case the entire recovery is vitiated on account of non-compliance of Section 50 of NDPS Act inasmuch as the offer extended to the petitioner in terms of Section 50 NDPS Act was rather restricted and the offer extended to accused by Sub-Inspector was as to whether the petitioner wanted himself to be searched by him (S.I.) or by some Gazetted Officer of Police or by some Magistrate. Learned counsel has further submitted that the petitioner, in any case, has been behind bars since last about 3 years and as such deserves concession of bail.
4. Opposing the petition, learned State counsel has submitted that the search in any case was effected by Deputy Superintendent of Police and as such no fault can be found in the procedure for effecting recovery. The learned State counsel has however informed that the petitioner has been behind bars since last about 2 years and 10 months and that he is not wanted in any other case registered under NDPS Act though he happens to be involved in one case registered under Section 392 & 395 IPC.
5. I have considered rival submissions addressed before this Court.
6. Keeping in view the fact that the petitioner has been behind bars since last about 2 years and 10 months and that it would be debatable as to whether the offer extended in the present case is valid offer in terms of Section 50 NDPS Act or not, in my opinion, further detention of the petitioner will

not serve any useful purpose as conclusion of trial is likely to take some time. The petition, as such, is accepted and the petitioner is ordered to be released on regular bail on his furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

27.08.2020
Gaurav Sorot

(GURVINDER SINGH GILL)
JUDGE

Whether reasoned / speaking? **Yes / No**

Whether reportable? **Yes / No**