

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

**CRM-M-8094-2020
Date of decision: 28.02.2020**

Sukhvir Singh @ Sukha

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Rishu Mahajan, Advocate
for the petitioner.

Mr. M. S. Nagra, AAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

This petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 30 dated 31.01.2019, registered under Section 22 of the Narcotic Drugs & Psychotropic Substances Act, 1985 at Police Station Phillaur, District Jalandhar.

Learned counsel for the petitioner submits that the petitioner is in judicial custody since 01.02.2019; *challan* stands presented, however, till date, no evidence is recorded and the petitioner is not involved in any other case.

Learned counsel for the petitioner further submits that as per allegations in the FIR, the police party, headed by SI Sukhdev Singh, apprehended two persons who boarded down from a bus. The petitioner was found carrying a polythene bag in his right hand, from which, two cardboards were recovered and the same were checked. From one box, recovery of 50 vials of Avil injection (which does not fall under the NDPS

Act) was effected and from the second box, 50 vials of *Buprenorphine* injection were recovered.

Learned counsel for the petitioner further submits that thereafter, the same Investigating Officer sealed the recovery effected from the petitioner and had taken the same in possession. Similarly, same recovery was effected from co-accused Sukhwinder Kumar.

Learned counsel further submits that as per the allegations in the FIR, when the recovery was effected and the investigation was completed, only thereafter a *ruqa* was sent for registration of FIR and, therefore, at no point of time, a second Investigating Officer was called and even it is debatable issue that despite a case of chance recovery, whether the provisions of Section 50 of the NDPS Act would apply in the facts and circumstances of the case. Learned counsel for the petitioner has relied upon the judgment rendered by Hon'ble Supreme Court in ***Mohan Lal vs. State of Punjab, 2018 (3) Law Herald (P&H) 2397 (SC)*** to support his arguments.

Learned State counsel, on the basis of the custody certificate filed today in Court and on instructions from ASI Yousuf Masih, has not disputed the factual position and submitted that till date, no evidence has been recorded. As per custody certificate, the petitioner is not involved in any other case.

I have heard learned counsel for the parties.

Without commenting upon the merits of the case, considering the fact that the petitioner is in judicial custody for the last more than a year and conclusion of trial is likely to take a long time as the prosecution evidence is yet to start and also in view of the aforesaid submissions of

learned counsel for the petitioner; the instant petition is allowed. The petitioner is ordered to be released on regular bail on his furnishing bail/surety to the satisfaction of the trial Court/Duty Magistrate concerned.

28.02.2020

Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No