

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

**CRM-M No.14627 of 2020 (O&M)
Decided on: 25.06.2020**

Sant Lal

....Petitioner

Versus

State of Haryana

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Amit Choudhary, Advocate
for the petitioner (through video conferencing)

Mr. R.K. Ambavta, AAG, Haryana
(through video conferencing)

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.352 dated 12.09.2019, for offence punishable under Section 22(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short 'the NDPS Act') registered at Police Station Sadar Fatehabad, District Fatehabad.

Counsel for the petitioner has argued that the petitioner is the first offender and is in custody since 12.09.2019. It is further submitted that as per the allegations in the FIR, registered at the instance of the complainant/ASI, he apprehended the petitioner on suspicion and found a polythene bag was hanging on the left side of the handle of the motorcycle. On opening the polythene bag, 43 strips of Tramadol Hydrochloride, 82 strips of Alprazolam and 57 strips of Alprazolam with a different batch number, were recovered. After effecting the recovery, the Investigating Officer/ASI, called the Drug

Inspector to seek his opinion, whether the contraband fall under the NDPS Act. It is further submitted that at no point of time, neither the notice under Section 50 of the NDPS Act was given to the petitioner though it was a chance recovery nor the second Investigating Officer was called at the spot after apprehending the petitioner and before effecting the recovery and therefore, the complainant/ASI himself conducted the entire investigation and it is a matter of trial as to whether the proper procedure was followed or not. It is also submitted that the co-accused of the petitioner namely Risal Singh, who was not arrested at the spot and was named in the FIR on the basis of the disclosure statement of the petitioner, that he has allegedly purchased the contraband from him, has already been granted the concession of regular bail vide order dated 13.12.2019 passed in CRM-M No.46203 of 2019.

Counsel for the State has not disputed the factual position but opposed the prayer for bail. It is also not disputed that the petitioner is the first offender.

Without commenting anything on merits of the case, considering the fact that the petitioner is in custody since 12.09.2019; the custodial interrogation of the petitioner is not required and the conclusion of the trial will 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.

25.06.2020

(ARVIND SINGH SANGWAN)
JUDGE

yakub

Whether speaking/reasoned

Yes/No

Whether reportable:

Yes/No