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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.17905 of 2020

Date of Decision: 04.11.2020

AMRIK SINGH @ MEETA

.....Petitioner

Vs

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Jagjit Singh Sarao, Advocate
for the petitioner.

Mr. Ramdeep Pratap Singh, D.A.G., Punjab.

RAJ MOHAN SINGH, J.(Oral)

The case has been taken up for hearing through video conferencing.

Petitioner seeks grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.29 dated 17.03.2019, registered under Section 22 of the NDPS Act, 1985 at Police Station Julkan, District Patiala.

Petitioner was arrested on the basis of suspicion and thereafter 252 strips of intoxicant tablets make lomotil were recovered from the petitioner.

Learned counsel for the petitioner by referring to the consent memo of the petitioner submitted that even personal search of the petitioner was effected and an amount of Rs.300/-

was recovered from the front pocket of his shirt.

Learned counsel further submitted that even in case of chance recovery, if offer is given in terms of Section 50 of the NDPS Act, then it becomes mandatory to comply with the requirements of Section 50 of the Act. In the present case, even personal search of the petitioner was effected.

Learned counsel further submitted that even as per prosecution case, the offer given to the petitioner ultimately entailed in reposing faith in the Investigating Officer and thereafter Investigating Officer proceeded to effect recovery from the petitioner. Learned counsel by relying upon **State of Rajasthan vs. Parmanand and another, 2014(2) RCR (Criminal) 40** and **Vijaysinh Chandubha Jadeja vs. State of Gujarat, 2010(4) RCR (Criminal) 911** submitted that the suspect was required to be taken to the nearest Magistrate even, if the faith was allegedly reposed by him in the Investigating Officer. The requirements of Section 50 of the NDPS Act are mandatory and it was imperative on the part of the Investigating Officer to comply with the same. When the Investigating Officer on noticing contraband felt the need of Section 50 of the Act and gave offer, it was imperative on his behalf to comply with the requirements of the aforesaid Section in order to impart authenticity, creditworthiness and

trustworthiness in the prosecution case.

Learned State counsel however opposed the prayer on the ground that as per FSL report, the contraband was detected to be Diphenoxylate Hydrochloride and the quantity beyond 50 grams is commercial in nature. Challan has been presented and charges have been framed, but no prosecution witness has been examined so far. Petitioner is in custody since 17.03.2019. In view of situation arising out due to COVID-19 pandemic, there are remote chances of culmination of the trial of the case in near future.

Looking to the aforesaid facts and in view of the situation arising out due to COVID-19 pandemic and without adverting to the merits of the case, I deem it appropriate to enlarge the petitioner on regular bail.

In view of above, petition is allowed. Petitioner is ordered to be released on bail, subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of the trial Court/concerned Duty Magistrate.

Nothing expressed hereinabove would be construed to be an expression of any opinion on merits of the case.

(RAJ MOHAN SINGH)
JUDGE

November 04, 2020

Atik

Whether speaking/reasoned Yes/No

Whether reportable Yes/No