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

**CRM-M No.20004 of 2020
Date of Decision: 01.09.2020**

BALWINDER SINGH @ BINDER

.....Petitioner

Vs

STATE OF PUNJAB

.....Respondent

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. P.K.S. Phoolka, 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.22 dated 01.03.2020, registered under Section 22 of the NDPS Act (hereinafter for short 'the Act') at Police Station SGN Thermal, Bathinda, District Bathinda.

The FIR was registered on the basis of chance recovery. Offer was given to the accused/petitioner in terms of Section 50 of the NDPS Act, but instead of summoning the gazetted officer, one Inspector namely Naveen Kumar came to

the spot and in his presence other formalities were completed. Evidently, the Inspector Naveen Kumar was not a gazetted officer.

By placing reliance upon **Gurjant Singh @ Janta vs. State of Punjab, 2013(4) RCR (Criminal) 874**, submitted that the Hon'ble Supreme Court after considering the ratio of **State of Punjab Vs. Balbir Singh, 1994(1) RCR (Criminal) 736**; **State of Punjab vs. Baldev Singh, 1993(3) RCR (Criminal) 533** and **State of H.P. vs. Pawan Kumar, 2005(92) RCR (Criminal) 622**, held that when the Investigating Officer on noticing contraband, felt the need of invoking Section 50 of the NDPS Act and gave offer to the accused, then Principle No.1 as held in para No.25 of **Balbir Singh's case (supra)** would not apply. Once notice under Section 50 of the NDPS Act was given to the accused, then it was imperative on the part of the Investigating Officer to comply with the requirement of Section 50 of the NDPS Act mandatorily. The alleged reposing of faith in the Investigating Officer is also hit by the ratio of **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**.

The factual position with regard the summoning of Inspector at the site in compliance of Section 50 of the Act has

been admitted by learned State counsel. He further submitted that the challan has been presented, but charges have not been framed so far. In any case, the trial of the case may take some time in its culmination. This is more so in view of situation arising out of COVID-19 pandemic.

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.

September 01, 2020

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Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No