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

CRM-M No. 20535 of 2020
Date of Decision: 12.10.2020

Vinay Kumar

-Petitioner

Vs

State of Punjab

-Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Monty Goyal, Advocate,
for the petitioner.

Mr. Harbir Sandhu, A.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.154 dated 25.09.2019 under Section 22 of NDPS Act registered at Police Station Nihal Singh Wala, District Moga.

FIR was registered on the basis of secret information. After receiving secret information, the police party consisting of police officials arrested the petitioner who was one of the two cut surd persons carrying two different black colour plastic bags in their hands.

Petitioner was allegedly apprised of his legal right to be searched before Gazetted Officer only. There was no offer given to him for his search before the Magistrate.

Learned counsel for the petitioner submitted that the aforesaid offer was a partial offer and requirement of Section 50 of NDPS Act was not complied with. He placed reliance upon **Rakesh Kumar vs State of Punjab, CRM-M No.9848 of 2018,** **Rohit Kumar vs State of Haryana, CRM-M No.3531 of 2019** and **Jaswinder Singh Kaku vs State of Punjab, CRM-M No.46569 of 2019** and contended that in view of partial offer given to the petitioner, the prosecution case stands vitiated.

Per contra, learned State counsel states that though initial offer was with regard to Gazetted Officer only, but the Gazetted Officer after arriving at the spot gave both the offers. Therefore the Gazetted Officer has complied with the requirement of Section 50 of NDPS Act.

In my considered opinion, complicity of the petitioner would remain debatable on the mandatory compliance of Section 50 of NDPS Act, particularly when FIR was registered on the basis of secret information.

Petitioner is in custody since 25.09.2019.

Challan has been presented.

No PW has been examined so far.

Owing to the situation arising out of pandemic COVID-19 and without meaning anything on the merits of the case, the petition is allowed. Petitioner is directed to be released on regular bail, subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of trial Court/concerned Duty Magistrate.

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

12.10.2020
Jyoti Sharma

(RAJ MOHAN SINGH)
JUDGE

1. Whether speaking/reasoned : Yes/No
2. Whether reportable : Yes/No