

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-23767 of 2019
Date of decision :14.02.2020

Balwinder Singh @ Billa

.....Petitioner

Vs.

State of Punjab

.....Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr.Vipul Jindal, Advocate, for the petitioner.

Mr.Sarabjit Singh Cheema, AAG, Punjab.

JASGURPREET SINGH PURI, J. (ORAL)

The present petition has been filed under Section 439 Cr.P.C. with a prayer for grant of regular bail to the petitioner in the case of FIR No.13 dated 21.01.2019 under Section 22 of Narcotic Drug and Psychotropic Substances Act, 1985, registered at Police Station Tarsikka, District Amritsar.

Learned counsel for the petitioner submits that in the present case mandatory Section 50 of the Narcotic Drug and Psychotropic Substances Act, 1985 has not been complied with. He has referred to the memo of recovery (Annexure P-3) as well as Annexure P-6 that the memo of personal search to examine that no Gazetted Officer was called and therefore, there is a blatant violation of Section 50 of the Act. He has further referred to the judgment of the Supreme Court in the case of **Parmanand vs. State of Rajasthan and others passed in S.B. Criminal Appeal No.74/2009**, to contend that at the time of personal search made from the bag in the hands of accused, Section 50 of the abovesaid Act is applicable. He further submits that petitioner is in custody since 21.01.2019 which is more than one year and the conclusion of trial is likely to take a long time. At the stage of trial, out of 12 prosecution witnesses, 4 have been examined and 1 has been given up. He further states that trial would take a long time and the petitioner may be considered for grant of regular bail. He further submits that there is no other case pending against the petitioner.

Per contra, learned State counsel in the present case submits that admittedly there is no other case against the petitioner but in this case since he had thrown away the bag and thereafter he was searched, Section 50 would not be applicable in the present case. He further submits that the charges in this case were framed on 24.05.2019 and admits that the petitioner is not facing any other case. Subsequently, he has opposed for grant of regular bail.

I have heard learned counsel for the parties and also gone through the records.

In the present case, admittedly there is no other case pending against the petitioner and he is in custody since more than one year and out of 12 prosecution witnesses, 4 have been examined and 1 has been given up. So far as applicability of Section 50 of the Act is concerned, it is admitted position that no Gazetted Officer was called for search, however, at this stage for deciding the bail application, this aspect would not go against the petitioner. Therefore, considering the totality of the facts and circumstances of the case, I deem it fit to admit the petitioner on bail. It is ordered that the petitioner shall be released on bail on his furnishing bail bond/surety bond to the satisfaction of the trial Court.

14.02.2020
anil

(JASGURPREET SINGH PURI)
JUDGE

Whether speaking/reasoned = Yes/No.

Whether reportable= Yes/No.