

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

CRM-M-25782-2020 (O&M)

Date of decision: 11.11.2020

Manpreet Kaur alias Mannu

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Amit Choudhary, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

CRM-26873-2020

Allowed as prayed for.

Main case

This is the third petition that has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 48 dated 03.06.2018, registered under Section 22 of the Narcotic Drugs & Psychotropic Substances Act, 1985 (*for short 'NDPS Act'*) at Police Station City 2 Abohar, District Fazilka. The earlier two bail applications were dismissed as withdrawn, vide Annexure A-1 and A-2.

Learned counsel for the petitioner submits that as per the allegations in the FIR, the policy party, on suspicion, stopped the petitioner, who was seen coming on foot, and after giving a notice under Section 50 of the NDPS Act, she was searched in the presence of a DSP.

Learned counsel further submits that as per further allegations

in the FIR, in the presence of the DSP, ASI Milkh Raj conducted the search of the bag which the petitioner was carrying and recovery of 1200 tablets of Alprafresh 0.5 and 4000 tablets of Tricare-SR was effected. It is further submitted that a perusal of the FIR would show that thereafter, LC Amritpal Kaur conducted the personal search of the petitioner in which no contraband was recovered and only some currency notes were found.

Learned counsel further submits that as per the provisions of Section 50(4) of the NDPS Act, the search of a female is to be conducted by a female officer and there is no qualification that it applies only to personal search.

Learned counsel for the petitioner, thus, submits that it will be a debatable issue whether the search was conducted by following the proper procedure.

Learned counsel further submits that petitioner is in judicial custody for the last about 02 years and 05 months and she is not involved in any other case.

Learned State counsel, on the basis of the custody certificate, has not disputed the submissions raised by learned counsel for the petitioner, however, submitted that Hon'ble Supreme, in ***State of Punjab vs. Baljinder Singh and another, 2020(1) RCR (Criminal) 58***, has held that in terms of Section 50 of the NDPS Act, search would mean personal search.

I have heard learned counsel for the parties.

Without commenting upon the merits of the case, considering the aforesaid submissions of learned counsel for the parties and also in view of the fact that petitioner is in judicial custody for a long time and the trial is

not proceeding due to COVID-19 situation, the instant petition is allowed.
The petitioner is ordered to be released on regular bail on her furnishing
bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Illaqa
Magistrate, concerned.

11.11.2020

Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No