

CRM-M-28625-2020

Date of Decision: 23.09.2020

Harmesh Singh

.....Petitioner

Vs.

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Ishan Gupta, Advocate, for the petitioner.

Mr. Sauravh Khurana, D.A.G., Punjab.

AMOL RATTAN SINGH, J. (ORAL)

All cases listed today have been taken up for hearing by way of video conferencing because of the situation existing due to the COVID-19 pandemic.

This petition has been filed under the provisions of Section 439 of the Cr.P.C. seeking 'regular bail' for the petitioner in case FIR no. 46 dated 19.07.2019, registered at Police Station G.R.P., District Sangrur, for the alleged commission of offences punishable under Sections 22/61/85 of the NDPS Act, 1985.

Learned counsel for the petitioner submits that, firstly, there is a non-compliance of Section 50 of the NDPS Act, 1985, inasmuch as the recovery from the petitioner is alleged to have been made (as per the investigating agency), when he threw away a packet containing contraband (Alprazolam) at a railway station and therefore, recovery from a packet held by an accused, would be also covered within the provisions of Section 50; for which he relies upon a judgment of a Division Bench of this court in **Ramphal**

@ Makkar vs. State of Haryana 2003 (2) RCR (Criminal) 437.

He further submits that the recovery allegedly being at a railway station, a gazetted officer could very easily have been called to the spot and actually therefore the recovery is a planted one.

He next submits that there is also non-compliance of Section 51 and further, that the expiry of the tablets allegedly recovered from the petitioner was marked as August 2019, i.e. about 12 to 13 days after the arrest of the petitioner.

He also submits that the petitioner has been in custody for the past 01 year and 02 months, with not even charges framed so far and that there is no other criminal case registered against the petitioner.

Learned counsel for the State, on the other hand, submits that the recovery being of the commercial quantity of Alprazolam and it being not from the person of the petitioner, Section 50 would have no application.

However, the stage of the trial and the period of custody is not denied by him.

Keeping in view the above, without making any comment on the actual merits of the case for or against the petitioner, as also the fact that there is no other criminal case registered against the petitioner, the petition is allowed. The petitioner shall be admitted to bail upon his furnishing adequate bail bonds and surety bonds to the satisfaction of the learned trial court/Chief Judicial Magistrate/Duty Magistrate, concerned.

September 23, 2020
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(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes
No.