

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

CRM-M-33943-2020 (O&M)
Date of Decision: 16.11.2020

Surjit Singh @ Tollu ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Sandeep Kumar Passi, Advocate, for the petitioner.

Mr. Ajay Pal Singh Gill, DAG, Punjab.

(proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner has filed this petition seeking grant of regular bail in a case registered against him vide FIR No.98, dated 21.06.2019, at Police Station City Patti, District Tarn Taran, under Sections 21/29 of the NDPS Act, wherein it is alleged that the petitioner was found in possession of 800 grams of heroin, which was recovered from the pocket of 'kurta' worn by him.
2. Learned counsel for the petitioner has submitted that it is a case of recovery of contraband from the personal search of the petitioner, but somehow Section 50 of the NDPS Act has not been complied with in its letter & spirit inasmuch as apart from extending the offer to get the search effected before a Magistrate or some other gazette officer, the Investigating Officer also extended an offer so as to include himself by stating that the accused also had an option to be searched before

him. The learned counsel in this context places reliance on State of Rajasthan Vs. Parmanand, 2014 (5) SCC 345.

3. On the other hand, learned State counsel has submitted that in a recent case reported as State of Punjab Vs. Baljinder Singh & another, (2019) 10 SCC 473, the Hon'ble Supreme Court has held that non compliance of Section 50 of the NDPS Act would not necessarily vitiate the factum of recovery in each and every case. The learned State counsel has, however, informed that the petitioner as on date has been behind bars since the last 1 year 1 month.
4. I have considered rival submissions addressed before this Court.
5. Having regard to the facts and circumstances of the case, this Court finds that it is a case where it would be debatable as to whether the provisions of Section 50 of the NDPS Act have indeed been complied with in its letter & spirit or not. In any case, keeping in view the fact that the petitioner has been behind the bars for the last 1 year and 1 month, further detention of the petitioner will not serve any useful purpose. The petition, as such, is accepted and the petitioner is ordered to be released on regular bail on his furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

(GURVINDER SINGH GILL)
JUDGE

16.11.2020

Vimal

Whether speaking/reasoned: **Yes/No**
Whether reportable: **Yes/No**