

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

**CRM-M No.33956 of 2019 (O&M)
Date of Decision:24.01.2020**

Ranjit Singh @ Rana

... Petitioner

Versus

State of Punjab

... Respondent

CORAM:- HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Vijay K. Jindal, Advocate,
for the petitioner.

Mr. M.S. Nagra, AAG, Punjab
for the State.

JASGURPREET SINGH PURI, J. (ORAL)

Through the present petition filed under Section 439 Cr.P.C., the petitioner prays for the grant of regular bail in case FIR No.88 dated 10.06.2019, under Section 21 of the NDPS Act, registered at Police Station City Patti, District Tarn Taran.

At the outset, learned counsel for the petitioner has raised a legal issue with regard to the non-compliance of Section 50 of the NDPS Act. He has pleaded that in the present case as per the FIR itself, the provisions of Section 50 of the NDPS Act have not been complied with as the accused was given the option for search from the 'gazetted police officer'.

Learned counsel for the petitioner has relied upon the

judgements of this Court in *Rakesh Kumar Vs. State of Punjab* (CRM-M-9848 of 2018), *Rohit Kumar Vs. State of Haryana* (CRM-M-3531 of 2019), *Amandeep Singh Vs. State of Punjab* (CRM-M-24763 of 2019) and *Jaswinder Singh @ Kaku Vs. State of Punjab* (CRM-M-46569 of 2019), to contend that the entire prosecution stands vitiated in view of the flagrant violation of the provisions of Section 50 of the NDPS Act.

Learned State counsel has argued that even if the offer was with regard to search by a gazetted police officer, that will not vitiate the prosecution because no prejudice has been caused to the petitioner as he has ultimately been searched by a gazetted police officer (Deputy Superintendent of Police) and the recovery was made from the accused.

Learned counsel for the petitioner has submitted that the petitioner was taken into custody on 10.06.2019 and he was released on interim bail vide order dated 27.08.2019 and thereafter, he surrendered in the last week of December, 2019.

I have heard the learned counsel for the parties and gone through the contents of the FIR. In the present case, the petitioner was given option for search by a 'gazetted police officer', which, in view of the judgements rendered by the Coordinate Benches of this Court, is in violation of the provisions of Section 50 of the NDPS Act, because it was a limited offer and instead of Gazetted Officer, search was conducted by a 'Gazetted Police Officer'. It has been held by Hon'ble Supreme Court in *Gurjant Singh @ Janta Vs. State of Punjab*, 2014(13) SCC 603, that the

and not to be treated as empty formality.

Considering the totality of the circumstances and the fact that the investigation in the case is complete and challan already stands presented and the trial is likely to take some time, this Court deems it fit to admit the petitioner on regular bail. Consequently, the present petition is allowed. It is ordered that the petitioner shall be released on regular bail on his furnishing bail bond/surety to the satisfaction of the learned trial Court.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant for the purpose of deciding the present petition only.

(JASGURPREET SINGH PURI)
JUDGE

24.01.2020
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Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No