

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

CRM-M No.36032 of 2019 (O&M)

Decided on: 03.02.2020

Jiwan Singh

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Vishal Deep Goyal, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for grant of regular bail to the petitioner under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.32 dated 17.03.2019, for offence punishable under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short 'the NDPS Act') (Section 29 of the NDPS Act added later), registered at Police Station Amloh, District Fatehgarh Sahib.

Counsel for the petitioner has argued that the petitioner is the first offender and the recovery is of 02 injections of Buprenorphine. It is further submitted that as per the allegations in the FIR, registered at the instance of SI Teja Singh, when he was on patrolling duty along with the other police party, he noticed one Sikh person coming a scooter. On suspicion, he was apprehended and on enquiry, he disclosed his name as Jiwan Singh. Thereafter, the Investigating Officer introduced himself and on suspicion, he gave him a notice to be

searched before the police gazetted officer or the magistrate. On this, the petitioner gave a consent to be searched before the same police officer and thereafter, he searched the bag of the petitioner in which 12 vials of Buprenorphine were found.

Counsel for the petitioner has further submitted that the complainant and the Investigating Officer are the same and after the investigation at the spot was completed, the second Investigating Officer was called, who has just completed the formalities.

Counsel for the State, on instructions from SI Manjit Singh and on the basis of the Custody Certificate, has not disputed the fact that the petitioner is not involved in any other case and further on the basis of the affidavit of the Senior Superintendent of Police, Fatehgarh Sahib has argued that since SI Teja Singh has not followed the proper procedure, a show cause notice has been given to him for the lapse on his part.

Without commenting anything on merits of the case, considering the fact that in the notice under Section 50 of the NDPS Act, the Investigating Officer has put a rider of Police Gazetted Officer and also in view of the fact that the petitioner is not involved in any other case; the second Investigating Officer was called at the spot after the investigation was completed and the conclusion of the trial will take some time, this petition is allowed and the petitioner is directed to be released on bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail of the petitioner, in case he is found involved in any

other case or misusing the concession of bail, in any manner.

03.02.2020
yakub

(ARVIND SINGH SANGWAN)
JUDGE

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