

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

**CRM-M-51742-2019 (O&M)**

**Date of decision : 22.09.2020**

Sonu

... Petitioner(s)

Versus

State of Punjab

... Respondent(s)

**CORAM: HON'BLE MRS. JUSTICE ALKA SARIN**

Present: Mr. R.P. Dhir, Advocate  
for the petitioner.

Mr. Ramandeep Sandhu, Sr. DAG, Punjab.

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**ALKA SARIN, J. (ORAL)**

Heard through video conferencing.

The present petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in FIR No.119 dated 26.10.2016 (Annexure P-1) under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 registered at Police Station Chabbewal, District Hoshiarpur, Punjab.

Learned counsel for the petitioner has contended that the petitioner is alleged to have been apprehended with 150 grams of intoxicant power containing salt of Diphenoxylate Hydrochloride. Learned counsel for the petitioner would further contend that there has been no compliance of Section 50 of the Narcotic Drugs and Psychotropic Substances Act, 1985, inasmuch as a perusal of the FIR itself reveals that though an offer was given to the petitioner to be

searched before a Magistrate or a Gazetted Officer, however, it is stated in the FIR that the petitioner had reposed faith in the Officer himself and the search was conducted by the ASI himself. To buttress his contention the learned counsel has relied upon 2016(3) RCR (Cri.) 539, 2018(2) RCR (Cri.) 308 and 2018(2) RCR (Cri.) 931.

The learned State Counsel has filed the custody certificate which has been sent to the VC co-ordinator by email. The same has been printed and retained on the record. The learned State counsel is not in a position to deny the factual aspect as stated by the learned counsel for the petitioner. However, it has been contented that the said question regarding compliance of Section 50 of the NDPS Act would be gone into during the trial and is not a ground for grant of regular bail.

I have heard learned counsel for the parties.

The petitioner has been in almost a year. Further, the issue whether there has been compliance of Section 50 of the NDPS Act is a debatable issue and will be gone into during the trial.

Without commenting on the merits of the case and keeping in view the fact that the petitioner has been in custody since 25.09.2019 as per the custody certificate and the fact that the trial is unlikely to conclude in the near future in view of the current scenario in the wake of the outbreak of the COVID-19 pandemic, I deem this to be a fit case to grant the concession of regular bail to the petitioner. The petitioner is ordered to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the Trial Court/Duty Magistrate concerned.

However, the Prosecution will always be at liberty to get the bail cancelled in case the petitioner is found to be misusing the concession of bail in any manner.

Disposed off accordingly.

**22.09.2020**  
Yogesh Sharma

**( ALKA SARIN )**  
**JUDGE**

**NOTE: Whether speaking/non-speaking: Speaking**  
**Whether reportable: YES/NO**