

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-53895-2019 (O&M)
Date of decision: 19.02.2020

Mohd. Salim

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Sherry K. Singla, 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 in FIR No.48 dated 25.06.2018 under Sections 22/61/85 of NDPS Act, registered at Police Station City-I, Malerkotla, District Sangrur.

Learned counsel for the petitioner relies upon the order dated 25.11.2019 passed in CRM-M-30501-2019, vide which, noticing the fact that a joint consent memo was prepared, co-accused Pardeep Kumar was granted the concession of regular bail. The operative part of the order reads as under: -

“On 13.09.2019, following order was passed by this Court: -

“Counsel for the petitioner submits that as per the allegations in the FIR, on suspicion, the police party apprehended two persons coming on a scooter.

After both of them disclosed their identity, he called

the DSP at the spot and the DSP informed both of them that he, being a Gazetted Officer, want to check the plastic bag, which was lying on the activa scooter. On search, the police recovered 60 bottles of Onerex Syrup and 1254 tablets of Carizma and 900 tablets of Alprazolam.

Counsel for the petitioner further stated that the petitioner is in custody since 25.6.2018 and the Investigating Officer PW6-SI Harmanjit Singh, in cross-examination has admitted and that it was a case of joint consent memo vide Ex.P1 and it is further admitted that no offer under Section 50 of the NDPS Act was given before conducting the personal search of the accused persons, in spite of the fact that the DSP was present at the spot.

Learned State counsel is directed to file an affidavit of the Senior Superintendent of Police, Sangrur about this serious lapse on the part of the Investigating Officer as well as the Deputy Superintendent of Police.

List again on 22.10.2019.

In the meantime, the petitioner is directed to be released on interim bail, subject to his furnishing bail/surety bonds to the satisfaction of the Chief Judicial Magistrate/Duty Magistrate, concerned.”

Learned State counsel has filed the affidavit of Senior Superintendent of Police, District Sangrur in the Court today, in which it is not disputed that a joint notice/consent memo was

prepared during the investigation. It is further stated that a departmental inquiry is ordered against the Investigating Officer/SI Harsimranjit Singh and show cause notice is also issued to the Deputy Superintendent of Police, Malerkotla, who was the Gazetted Officer present at the spot.”

Learned State counsel, on instructions from ASI Harbhajan Singh, has not disputed the factual position.

Without commenting anything on merits of the case, considering the fact that the petitioner is in long custody and his co-accused Pardeep Kumar has already been granted the concession of regular bail, this petition is allowed and the petitioner is directed to be released on regular bail subject to furnishing his bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate, concerned.

Petition is disposed of.

[ARVIND SINGH SANGWAN]
JUDGE

19.02.2020
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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No