

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CRM-M-366-2021 (O&M)  
Date of decision: 24.11.2021

Chanan Singh

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Ruhani Chadha, Advocate  
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

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**ARVIND SINGH SANGWAN, J. (ORAL)**

Prayer in this petition is for grant of regular bail in FIR No.36 dated 27.05.2015 under Section 22 of NDPS Act, registered at Police Station Kabirpur (Ahlikalan), District Kapurthala.

On 04.03.2021, while granting interim bail to the petitioner, following order was passed by this Court: -

*“...Learned counsel for the petitioner, inter-alia, contends that the petitioner is entitled to bail as there was non-compliance of Section 50 of the NDPS Act in terms of the judgment rendered in Arif Khan @ Agha Khan Vs. State of Uttarakhand 2018 (2) RCR*

*(Criminal) 931. It is also argued that both the consent memo as well as the recovery memo mentions FIR No. 36 dated 27.5.2015, whereas the FIR came to be registered subsequently. He places reliance on Ajay Malik Vs. State of U.T. Chandigarh, 2009(3) RCR (Criminal) 649, which has subsequently been followed by a co-ordinate Bench of this Court in Crl. Misc. M 35997 of 2020 titled Ashok Kumar @ Ashoka Versus State of Punjab decided on 1.3.2021. It is also submitted that the FIR that came to be registered at Kapurthala was not based upon a secret information and the FIR number was filled in subsequently at the Police Station, as would be evident from the recovery as well as consent memo. Both the memos finds the number of FIR at the top of the memo. Thus, at the time of preparing the alleged recovery memo, even the FIR was not in existence.*

*On the other hand, learned counsel for the respondent—State would submit that the procedure as provided under the Act was followed in the recovery of contraband. It is submitted that the recovery/consent memo will reflect that the FIR No. was left blank and subsequently filled up in a different handwriting and ink. It is also submitted that the recovered contraband is more than the commercial quantity and therefore, the petitioner is not entitled to grant of bail.*

*The the instant petition raises debatable issues, therefore,*

*needs full fledged hearing.”*

Learned counsel for the petitioner submits that the petitioner has not misused the concession of interim bail and is regularly appearing before the trial Court and he remained in judicial custody for about 08 months, prior to the date, when he was granted the concession of interim bail.

Learned State counsel, on the basis of custody certificate, has not disputed the factual position.

In view of the above, this petition is allowed and the order dated 04.03.2021, vide which the petitioner was granted the concession of interim bail, is hereby made absolute.

**[ ARVIND SINGH SANGWAN ]**  
**JUDGE**

24.11.2021  
*vishnu*

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No