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

**CRM-M No.5332 of 2020(O&M)
Date of Decision: 07.07.2021**

Gursharan Singh @ Sunny

.....Petitioner

Vss

State of Punjab

.....Respondent

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. B.S. Kathuria, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

RAJ MOHAN SINGH, J.(Oral)

The case has been taken up for hearing through video conferencing.

Petitioner seeks grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.104 dated 05.07.2018 registered under Sections 22, 61 of the NDPS Act at Police Station Payal (Police Distt-Khanna), District Ludhiana.

The FIR was registered on the basis of chance recovery, where 16 injections of Buprenorphine and 16 injections of Avil were recovered from the petitioner.

Learned counsel for the petitioner submits that Avil

does not fall under the category of NDPS Act. Prosecution case shows that even in case of chance recovery, notice/offer under Section 50 of the NDPS Act was given to the petitioner and the petitioner allegedly reposed faith in the Investigating Officer and thereafter, Investigating Officer proceeded to effect recovery. Learned counsel further submits that interim bail was granted to the petitioner as per ratio laid down in **Inderjeet Singh @ Laddi Vs. State of Punjab, 2014(3) RCR (Criminal) 953**. Now after Chemical Examiner's report, interim bail has been cancelled. Learned counsel further submits that injections were not carrying any batch number, date of manufacturing and other particulars and only one injection was subjected to Chemical Analysis, which has been admitted by Investigating Officer ASI Mashinder Singh while appearing as PW 1.

Learned counsel further submits that in **Gurjant Singh @ Janta Vs. State of Punjab, 2013(4) RCR (Criminal) 874**, the Hon'ble Apex Court has observed that when Investigating Officer on noticing the contraband felt the need of invoking Section 50 of the NDPS Act and gave offer to the accused, then requirement of Section 50 of the NDPS Act became mandatory.

In the instant case, suspect was not brought before the Magistrate/Gazetted Officer, rather Investigating Officer proceeded to effect service on the alleged plea of reposing faith

in him by the accused. Learned counsel for the petitioner also relies upon **State of Rajasthan Vs. Parmanand and another, 2014(2) RCR (Criminal) 40** and **Vijaysinh Chandubha Jadeja Vs. State of Gujarat, 2010(4) RCR (Criminal) 911** on the issue of alleged reposing of faith in the Investigating Officer.

Learned State counsel, however, opposed the bail on the ground that the accused is having antecedent behaviour of criminal activity as he is also involved in number of cases under NDPS Act.

Learned counsel for the petitioner submits that the petitioner is on bail in other cases.

In view of above, the complicity of the petitioner would remain debatable.

Looking to the aforesaid facts and in view of the situation arising out due to COVID-19 pandemic, I deem it appropriate to enlarge the petitioner on regular bail without adverting to the merits of the case.

In view of above, petition is allowed. Petitioner is ordered to be released on regular bail, subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of the trial Court/concerned Duty Magistrate.

Nothing expressed hereinabove would be construed to be an expression of any opinion on merits of the case.

07.07. 2021	(RAJ MOHAN SINGH)
<i>Prince</i>	JUDGE
Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No