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

(Through video-conferencing)

**CRM-M No.11878 of 2021(O&M)
Date of Decision: 16.08.2021**

Avtar Singh @ Babu

.....Petitioner

Vs

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Siddharth Gupta, Advocate
for the petitioner.

Mr. Bhupender Beniwal, Asstt., A.G., PUnjab.

RAJ MOHAN SINGH, J.(Oral)

Petitioner seeks grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.0221 dated 05.11.2019 registered under Section 22 of the NDPS Act at Police Station Goraya, District Jalandhar (Rural).

Petitioner was arrested on suspicion. 1200 tablets of Azprezolan and 2450 intoxicant tablets of tramadol hydrochloride were allegedly recovered from the petitioner. IO/ASI reached the spot in a private vehicle. Informing ASI Lavinder Singh verbally told the investigating ASI about the

circumstances. The grievance of the petitioner is that the FIR in question was registered on 05.11.2019 at 2 PM i.e. 14:00 hours. It is so recorded in para No.3(a) of the FIR, whereas information of the offence was received in the police station at 2:15 PM as per para No.3(b) of the FIR.

Learned counsel for the petitioner submits that the FIR is anti-timed. On 19.03.2021 following order was passed by the Co-ordinate Bench:-

“Counsel for the petitioner inter alia would contend that FIR has been registered at 2 PM, prior in time to the information received at the police station. He would argue that there is non-compliance of Section 50 of the NDPS Act in so far as no offer was made to the petitioner to have his personal search conducted before a Magistrate. It is also contended that the FIR itself would reflect that the polythene bag was in his hand, therefore, it would amount to be on his person. ASI Lakhwinder Singh has not signed body of the complaint and it is under the signatures of ASI Gursharan Singh.

Learned counsel appearing for the respondent-State seeks time to file reply to the contentions raised by the counsel appearing for the petitioner.

Adjourned to 27.04.2021.

**(JAISHREE THAKUR)
JUDGE”**

March 19, 2021
Pankaj*

Today, learned counsel for the petitioner submits that *jamatalashi* may not be construed to be a personal search in

terms of Section 50 of the NDPS Act, but the time of recording the FIR is anti-timed and has been recorded even prior to the receiving of information in the police station.

The State has filed reply by way of affidavit of Suhail Mir, IPS, Superintendent of Police, Phillaur, District Jalandhar.

Para Nos.6, 7 and 8 of the reply read as under:-

6. That it is pertinent to mention here that in Part-1 of the above-said FIR, time is mentioned as 02:00 Hrs Dated 05.11.2019 and the time of receipt of information is mentioned as 02:15 Hrs Dated 15.11.2019 in Column (b) of Part 3 of above-said FIR. It is pertinent to mention here that at the end of the FIR it has been specifically mentioned that the process of registration of FIR has been completed at 02:55 PM and entry in this regard has been separately made vide DDR No.31 dated 05.11.2019. True English Translation of FIR No.221 dated 05.11.2019 U/s 22 NDPS Act, PS Goraya District Jalandhar is being appended herewith as annexure R-3/T.

7. That for the sake of clarity, it is humbly submitted that on 05.11.2019, an another FIR No.222 dated 05.11.2019 U/s 188 IPC has been registered at the Police Station Goraya District Jalandhar (Rural) on the

same day i.e. 05.11.2019. It is pertinent to mention here that in the above-said FIR No.222 dated 05.11.2019, it has been mentioned at the end of FIR that the process for registration of FIR has been completed at 04:29 PM, however, even in the said FIR No.222 dated 05.11.2019, the time mentioned in the FIR is 16:00 Hrs. True English Translation of the FIR No.222 dated 05.11.2019 U/s 188 IPC Police Station Goraya District Jalandhar (Rural) is being appended herewith as annexure R-4/T.

8. That in view of the submissions made in preceding Para No.3 to 6, it is submitted that the time mentions as 02:00 Hrs in FIR No.221 dated 05.11.2019, PS Goraya might be a technical error of the software or the computer as the same is evident from the contents of annexure R-1/T and annexure R-2/T wherein the time of receipt of information is mentioned as 02:15 Hrs and time of completion of process of registration of FIR is mentioned as 02:55 PM. On the other hand, it is also evident from the contents of another FIR No.22 dated 05.11.2019 (annexure R-4/T) wherein also the time of registration of said FIR is mentioned as 16:00 Hrs and the time of completion of process of said FIR is

mentioned as 4:29 PM.

Perusal of the reply would show that a great consideration has been made regarding time of completion of process of registration of FIR. An attempt has been made to explain the position with reference to subsequent FIR No.222 which was registered on 05.11.2019 under Section 188 IPC and process of registration of said FIR was completed at 04:29 PM. The present FIR was registered at 02:00 PM and process of registration was completed at 02:55 PM. In para No.8 of the reply, deponent has admitted that the time mentioned in the FIR as 02:00 PM might be a technical error of the software or the computer.

In NDPS cases, provisions are so stringent and minimum sentence prescribed in case of commercial quantity is 10 years with fine of Rs.1 lac.

At this stage, plea of the petitioner and the stand taken by the State, cannot be commented upon conclusively.

Earlier petitioner was granted interim bail in view of ratio laid down in **Inderjeet Singh @ Laddi Vs. State of Punjab, 2014(3) RCR (Criminal) 953**. After availing the interim bail successfully, the petitioner has surrendered before the trial Court on 05.02.2021 and since then, he is in custody. *Prima*

facie, in view of contradictions on record, I deem it appropriate to consider the regular bail of the petitioner, who is in custody since 05.02.2021.

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 opinion on merits of the case.

(RAJ MOHAN SINGH)
JUDGE

16.08.2021

Prince

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No