

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

Criminal Misc. No.M-11860 of 2021(O/M)

Date of Decision: November 03, 2021

Sanjeev Kumar

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

--

Present: - Mr.Amit Choudhary, Advocate
for the petitioner.

Mr.Surender Singh, AAG, Haryana.

-

HARINDER SINGH SIDHU, J.

The petitioner has filed this petition under Section 439 Cr.P.C for grant of regular bail in case FIR No.525 dated 31.10.2020 under Section 22(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985, Police Station city Fatehabad, District Fatehabad.

The version of the prosecution is that on 31.10.2020, Sub Inspector Kuldeep Singh of Special Staff along with HC Kuldeep Singh and HC Roshan Lal and Constable Manoj Kumar was present at the barricading on Fatehabad-Gusar Road near Roti Bank opposite Bus Stand, Fatehabad. They noticed a young boy (the petitioner) coming on a white colour scooty, who was signalled to stop. On seeing the Police party and the Government vehicle, the petitioner tried to turn the scooty back, but due to traffic flow on the road, could not do so. He was apprehended by the SI with the help of other police officials. The scooty was a Hero Honda Activa white colour

without number plate. Its Engine number and chassis numbers were noted. The Sub- Inspector noticed a green polythene bag near the feet of the petitioner on the scooty. On suspicion that it contained some intoxicant substance, notice in writing regarding his legal right to be searched before a Magistrate or Gazetted officer was given to the petitioner. The petitioner opted for a search in the presence of a Gazetted officer. SDO Ranjeet Singh, W/S Water Service Fatehabad, Illaqa Nodal Officer was requested to come on the spot. On the arrival of Ranjeet Singh, the polythene bag of green colour lying near the feet of the petitioner on Aactiva Scooty was opened. On its search 600 NRX Tramadol Hydrochloride, Diclofenac Sodium, Dicyclomine Hydrochloride and Chlorpheniramine Maleate Capsules PARVORIN-SPAS RIDLEY weighing 500 grams and 2400 Alprazolam Tablets IP XL-PAM 0.5 weighing 528 grams were recovered. The scooty was also taken into possession.

Learned counsel for the petitioner has argued that the petitioner has falsely been roped in the case. He is a registered Pharmacist. The petitioner has no concern with the alleged contraband. There is non-compliance of mandatory provision of Section 50 of NDPS Act. He has referred to a Notification dated 29.12.1986 issued by the Excise and Taxation Department, Haryana Government (P.3) to contend that the SDO Water Supply, Fatehabad was not empowered to conduct the search of the petitioner.

The contention raised on behalf of the petitioner is without merit. In the present case the recovery has been made from a polythene bag lying near the foot platform of the scooty, driven by the petitioner and

not on his personal search. In the circumstances, there was no requirement of compliance with provisions of Section 50 of the NDPS Act.

The recovery is of a commercial quantity. No ground is made out for grant of bail to the petitioner at this stage.

Dismissed.

Nothing stated hereinabove shall be construed as an expression of opinion on merits of the case.

November 03, 2021

gian

(HARINDER SINGH SIDHU)
JUDGE

Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No