

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(219)

CRM-18516 of 2021(O&M)

Decided on 12.10.2021

KULDEEP SINGH

.....Petitioner

VERSUS

STATE OF PUNJAB

.....Respondent

CORAM : HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Kapil Aggarwal, Advocate, for the petitioner.

Mr. J.P.Ratra, DAG, Punjab. _

(Through video conferencing)

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for grant of regular bail in case FIR No.153 dated 07.09.2020, registered under Section 18 of Narcotic Drugs and Psychotropic Substances Act, 1985 and Sections 29, 31 of Narcotic Drugs and Psychotropic Substances Act, 1985 added later on, at Police Station Chamkaur Sahib, District Rupnagar (Punjab).

Learned counsel for the petitioner submits that the petitioner is a first offender and is in custody for the last more than one year.

It is further submitted that as per the allegation in the FIR, the complainant-ASI Balbir Singh got a secret information that petitioner Kuldeep Singh is coming in a car along with one Subhash Chander @ Bassi and they are engaged in a business of selling narcotic substances and they are carrying large quantity of opium. On this the police party stopped the said car and on suspicion, apprehended both the accused and after giving notice under Section 50 of the NDPS Act, recovered 05 kg

900 grams of opium from the Diggy(Trunk) of the car.

The learned counsel submits that the Investigating officer failed to comply with the mandatory provision of Section 50 of NDPS Act, as notice under Section 50 is not proper as per the requirement of Section 50 of NDPS Act, as option of the search was either from a Gazetted Officer or a Magistrate or Investigating Officer himself, therefore, the learned counsel further submits that notice under Section 50 is defective.

It is further argued that during the investigation, co-accused Subhash Chander @ Bassi, who was sitting on the co-driver seat has made a confessional statement that in fact he has purchased the opium from one Kirpal Singh resident of U.P. However, Kirpal Singh was never arrested and the petitioner was involved in this case being driver and owner of the car. The counsel further submits that Subhash Chander @ Bassi has already been released on bail vide order dated 16.03.2021 passed in CRM-M-No.11237 of 2021.

The learned State counsel could not dispute the factual position including the disclosure of co-accused Subhash Chander @ Bassi.

Learned counsel further submits that till date charges have not been framed and there are total 16 prosecution witnesses.

As per the custody certificate the petitioner is in custody for the last one year and is not involved in any other case.

After hearing the learned counsel for the parties and in view of the disclosure statement of co-accused Subhash Chander @ Bassi which is the part of the report submitted under Section 173 Cr.P.C. and

also in view of the fact that it will be the matter of trial whether the notice under Section 50 of NDPS Act was issued in accordance with the provisions of law.

The present petition is allowed and the petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate, concerned.

(ARVIND SINGH SANGWAN)
JUDGE

12.10.2021
Anjal

<i>Whether speaking/reasoned :</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>