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

**CRM-M-15920-2020
Date of Decision: 04.10.2021**

Happy

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present: Mr. P.S. Sekhon, Advocate,
for the petitioner.

Mr. B.S. Sewak, Addl. A.G., Punjab.

SUDIP AHLUWALIA, J. (ORAL)

This is a petition for regular bail filed on behalf of the petitioner under Section 439 Cr.P.C. in case FIR No.199 dated 02.10.2019, under Sections 22, 25 & 29 of the NDPS Act, registered at Police Station City Jagroan, District Ludhiana (Rural).

[2]. With reference to the noting recorded in the earlier order dated 18.02.2021, Ld. Counsel for the petitioner submits that in the present case, the FIR was originally lodged against Raj Kumar @ Laddu and Hardeep Singh, from whom, alleged recovery of 4000 intoxicating tablets were effected, and that on their disclosure statement, the present petitioner was implicated and a recovery of 6000 similar tablets was shown from him. Submits further that before apprehending the petitioner, the Police Authorities did not send any intimation to the Superiors in terms of Section 42(1) of the N.D.P.S. Act, since even the disclosure statement given to them by the originally arrested accused persons would constitute an

“information” within the meaning of Section 42 of the N.D.P.S. Act, which ought to have been necessarily communicated to the Superior Authority.

[3]. Faced with this, Ld. State Counsel after ascertaining from the Investigating Officer fairly concedes that the compliance in terms of Section 42(1) of the N.D.P.S. Act *qua* the present petitioner was actually not done although there is no such infirmity as against the original accused persons, namely, Raj Kumar @ Laddu and Hardeep Singh.

[4]. In view of this visible infirmity in procedure in the matter of complying with the statutory requirements *qua* the present petitioner, who is otherwise not reported to be involved in any other case under the N.D.P.S. Act, and who by now has already undergone imprisonment for more than 2 years, since 02.10.2019, this Court is of the opinion that his further detention for an indefinite period at this stage is not called for, and he is, therefore, ordered to be released on regular bail subject to appropriate terms and conditions to the satisfaction of the Ld. Trial Court/Duty Magistrate, concerned.

[5]. Disposed off.

04.10.2021

Bhumika

**(SUDIP AHLUWALIA)
JUDGE**

1. Whether speaking/reasoned: Yes/No

2. Whether reportable: Yes/No