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

CRM-M No. 21768 of 2021
Date of Decision: 28.06.2021

Jaspal Singh

-Petitioner

Vs

State of Punjab

-Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Vikram Preet Arora, Advocate,
for the petitioner.

Mr. Amar Ashok Pathak, Addl. A.G., 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.48 dated 31.03.2021 under Sections 18, 61, 85 of NDPS Act registered at Police Station Shambu, District Patiala.

Petitioner has been nominated as an accused on the basis of disclosure statement of co-accused Shifali @ Poonam Singh who was arrested along with 3 kgs 500 grams of Opium. As per prosecution story, during checking of vehicles, police party saw a lady alighting from a vehicle carrying two polythene

bags in her hands. On seeing the police party, she tried to run away. She was apprehended on the basis of suspicion. She disclosed her name as Shifali @ Poonam Singh. An offer was given to her as to whether she wanted to be searched before a Gazetted Officer or Magistrate. The aforesaid accused reposed faith in the Investigating Officer and thereafter, the Investigating Officer proceeded to effect recovery from aforesaid co-accused Shifali and recovered 3 kgs 500 grams of Opium.

Learned counsel for the petitioner submits that even in case of chance recovery, if offer is given to the accused in respect of Section 50 of NDPS Act, then the same becomes mandatory. Even if faith is reposed in the Investigating Officer, he was required to take the suspect to the nearest Magistrate. When the Investigating Officer on noticing the contraband felt the need of invoking Section 50 of NDPS Act and gave offer to the accused, then he was supposed to take the suspect to the nearest Magistrate and it was imperative on the part of the Officer to comply with mandatory requirement of Section 50 of the Act in order to impart authenticity, transparency and creditworthiness in the case.

Petitioner has been implicated on the basis of disclosure statement of co-accused Shifali and no recovery has been effected from the petitioner.

Petitioner is in custody since 05.04.2021.

Factual position of the case could not be disputed by learned State counsel, however, he opposed the bail on the ground that huge recovery has been effected from co-accused who was a carrier on behalf of the petitioner.

Keeping in view the facts particularly in view of the fact that the petitioner has been implicated on the basis of disclosure statement of co-accused, therefore, I deem it appropriate to grant regular bail to the petitioner.

Owing to the situation arising out of pandemic COVID-19 and without meaning anything on the merits of the case, the petition is allowed. Petitioner is directed to be released on regular bail, subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of trial Court/concerned Duty Magistrate.

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

28.06.2021
Jyoti Sharma

(RAJ MOHAN SINGH)
JUDGE

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| 1. | Whether speaking/reasoned | : | Yes/No |
| 2. | Whether reportable | : | Yes/No |