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

(Through Video-conferencing)

**CRM-M No.17600 of 2020(O&M)
Date of Decision:27.08.2021**

**JAGDEV SINGH @ DEBA
Vs**

.....Petitioner

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present:Mr. Prateek Pandit, Advocate
for the petitioner.

Mr. Amar Ashok Pathak, Addl AG, 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.30 dated 04.02.2020, registered under Section 22 of NDPS Act, at Police Station Phillaur, District Jalandhar.

As per allegations, the Police party was on patrolling and checking of specious and bad elements. Petitioner was apprehended with a carry bag. Another Investigating Officer was called. Thereafter, recovery of 2450 tablets of Tramadol Hydrochloride was made.

Learned counsel for the petitioner submits that in the

FIR true facts have not been incorporated. As per the consent memo prepared by the Police, ASI Sarabjit Singh gave offer to the accused that the accused had a legal right to get himself seached before the Gazetted Officer/Magistrate. On this offer, the accused reposed faith in the Investigating Officer. The consent memo was prepared on 04.02.2020 which was duly thumb marked by the accused. Recovery memo was prepared on that very day. Recovery memo does not carry thumb impression of the petitioner.

Learned counsel for the petitioner submits that in case of reposition of faith, the Investigating Officer was under legal obligation to bring the suspect before the nearest Magistrate in order to impart authenticity, trustworthiness and creditworthiness to the prosecution case.

Learned counsel refers to **State of Rajasthan and another, 2014 (2) RCR (Criminal) 40** and **Vijaysinh Chandubha Jadeja Vs. State of Gujarat, 2010(4) RCR (Criminal) 911.** By referring to **Sandeep Kumar Vs. State of Punjab, 2019 (4) RCR (Criminal) 741,** learned counsel further submits that in the absence of signature/thumb impression of the petitioner on recovery memo, the recovery becomes suspicious.

Learned State counsel however, opposed the bail on the ground that the recovery memo is not normally signed/thumb marked by the accused and generally the accused used to refuse to sign/thumb mark the same. There is no prima facie material to show any refusal having been made by the petitioner in this case. Challan has been presented and charges have been framed. Petitioner is in custody since 04.02.2020.

On the basis of aforesaid factual position and in view

of situation arising out due to COVID-19 pandemic, I deem it appropriate to enlarge the petitioner on regular bail without embarking upon the merits of the case.

In view of above, petition is allowed. Petitioner is ordered to be released on 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 any opinion on merits of the case.

27.08.2021

Amandeep

Whether speaking/reasoned

Whether reportable

**(RAJ MOHAN SINGH)
JUDGE**

Yes/No

Yes/No