

220

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

(Through video-conferencing)

**CRM-M No.26440 of 2021
Date of Decision: 30.07.2021**

**MOHAMMAD ILLAS @ MOHAMMAD ILLIYAS
.....Petitioner**

**Vs
STATE OF PUNJAB**

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present:Mr. Parminder Singh Sekhon, Advocate
for the petitioner.

Mr. Amar Ashok Pathak, Addl. A.G., Punjab.

RAJ MOHAN SINGH, J.(Oral)

Petitioner seeks grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.185 dated 25.12.2020, registered under Section 22 of the NDPS Act at Police Station Shambu District Patiala.

FIR was registered on the basis of suspicion. Offer was given to the petitioner in terms of Section 50 of the NDPS Act and the petitioner allegedly reposed faith in the Investigating Officer. Thereafter the Investigating Officer proceeded to conduct search of the petitioner and effected recovery of 1500 intoxicant tablets. On chemical analysis, content of contraband

was found to be Alprazolam. Average weight of one tablet was found to be 122 mg and, therefore, total weight was calculated as 183 grams.

Learned counsel for the petitioner submitted that even in case of chance recovery, if offer is given in terms of Section 50 of the said Act, then its compliance become mandatory in view of ratio of **Gurjant Singh @ Janta Vs. State of Punjab, 2013(4) RCR (Criminal) 874.**

Learned counsel further submitted that if the Investigating Officer on noticing the contraband felt the need of invoking Section 50 of the NDPS Act and gave offer to the accused and the accused allegedly reposed faith in him, then it becomes imperative on the part of the Investigating Officer to take him to the nearest Magistrate so as to impart creditworthiness, authenticity and transparency to the prosecution case. Learned counsel relied upon **State of Rajasthan Vs. Parmanand and another, 2014(2) RCR (Criminal) 40** and **Vijaysinh Chandubha Jadeja Vs. State of Gujarat, 2010(4) RCR (Criminal) 911** and **Narcotics Central Bureau vs. Sukh Dev Raj Sodhi, 2011(3) R.C.R. (Criminal) 370.**

The factual position of the case could not be disputed

by learned State counsel, however he opposed the bail on the ground that the recovery effected from the petitioner is of commercial quantity. Challan has been presented. Now the next date is fixed 04.08.2021.

In view of proceedings undertaken by the Police, the complicity of the petitioner would remain debatable.

At this stage, without embarking upon merits of the case, I deem it appropriate to enlarge the petitioner on regular bail, who is in custody since 25.12.2020.

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 opinion on merits of the case.

July 30, 2021

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Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No