

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

**CRM-M-28023-2021
Date of decision: 18.11.2021**

Varun Kumar @ Kaku

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Ms. Isha Goyal, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

This petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 140 dated 23.10.2020, registered under Sections 21/25/29/61/85 of the Narcotic Drugs & Psychotropic Substances Act (*for short 'NDPS Act'*) at Police Station City STF, District S.A.S. Nagar, Mohali.

Learned counsel for the petitioner submits that the petitioner is a first offender; he is in judicial custody for the last 01 year and 22 days and till date, no prosecution witness has been examined as even the charges have not been framed so far.

Learned counsel for the petitioner further submits that as per allegations in the FIR, registered at the instance of complainant-ASI Dilbagh Singh, it is stated that while on patrol duty, a secret information was received that the petitioner is habitual of selling the intoxicant substance and he is coming in a car along with one Amritpal and if they are intercepted, they can be apprehended along with intoxicant substances.

Thereafter, an information was sent to DSP on his mobile phone and a raid was conducted in the house of aforesaid Amritpal by the DSP, where two persons were seen sitting including the petitioner. Thereafter, recovery of 300 grams of Heroin was effected from both the accused.

Learned counsel further submits that it will be a matter of trial whether the provisions of Section 42 of the NDPS Act were complied with or not as it is stated in the FIR that only a telephonic information was given and thereafter, when the raid was conducted in the house of co-accused Amritpal, no notice under Section 50 of the NDPS Act was given, therefore, it will again be a matter of trial whether the provisions of Section 50 of the NDPS Act were properly complied with or not.

Learned State counsel has filed the custody certificate along with a reply by way of affidavit of DSP, STF, Border Range, Amritsar. A perusal of the reply would show that nothing is stated about the compliance of provisions of Sections 42 and 50 of the NDPS Act. A further perusal of the reply would reveal that the petitioner is not involved in any other case, however,.

I have heard learned counsel for the parties.

Without commenting upon the merits of the case, considering the aforesaid facts and circumstances, the instant petition is allowed. The petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate/Illaq Magistrate, concerned.

18.11.2021

Waseem Ansari

**(ARVIND SINGH SANGWAN)
JUDGE**

*Whether speaking/reasoned
Whether reportable*

*Yes/No
Yes/No*