

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

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**CRM-M No.25084 of 2020(O&M)
Date of Decision: 19.01.2021**

HARSH VERMA

.....Petitioner

Vs

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Lakshay Bector, 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.

CRM No.1413 of 2021

For the reasons mentioned in the application, the
same is allowed. Report under Section 173 (2) Cr.P.C.
(Annexure P-3) is taken on record.

CRM-M No.25084 of 2020

This petition has been filed under Section 439 Cr.P.C
seeking regular bail in case bearing FIR No. 28 dated
14.02.2020 under Section 21/22/25 of the NDPS Act registered
at Police Station STF Mohali, Phase-4, SAS Nagar.

Learned counsel for the petitioner submits that the FIR was registered on the basis of secret information and police has not complied with the mandatory provisions of Section 50 of the NDPS Act. Perusal of the consent memo would show that it was prepared under the signature of Jagtar Singh, ASI, Special Task Force, Ludhiana on 13.02.2020 i.e. the date even on which the FIR was not in existence. FIR came to be recorded on 14.02.2020. Even number of the FIR and the date are appearing at the top of the consent memo.

Learned counsel for the petitioner, with reference to the aforesaid fact, submitted that the proceedings have been conducted by the police at some convenient place after lodging of the FIR. Other documents are also to the same effect. Secondly, learned counsel for the petitioner submitted that the FIR was registered on 14.02.2020. As per report under Section 173 (2) Cr.P.C., on 14.02.2020, ASI Jagtar Singh got the case property bearing stamp seal along with three samples from Malkhana in good condition and presented the same before the Judicial Magistrate, Ist Class, Ludhiana (D) along with the accused-petitioner. The Court gave one day remand of the petitioner in police custody and then put the stamp seals on the case property. The samples were sent to FSL only on 19.02.2020.

Learned counsel for the petitioner further submitted that according to the instructions/ notification No.1/88 issued by the Narcotics Control Bureau, the samples were required to be sent to FSL within 72 hours. The view expressed in **Union of India vs. Bal Mukund and others, 2009 (2) RCR (Cr.) 574** and **CRA-S No.1449-SB of 2008** titled **Satpal vs. State of haryana** decided on 06.08.2012 have been relied in this context in order to give indulgence in favour of the petitioner.

The factual position of the case could not be disputed by learned State counsel except to say that a bare perusal of the FIR would show that the same was registered on the statement recorded on 13.02.2020 and the mentioning of FIR number on the consent memo is a routine practice. However, learned State counsel could not dispute the factum of sending the samples to FSL on 19.02.2020. Learned State counsel further submitted that the recovery is of commercial in nature.

At this stage, without meaning anything on the merits of the case, I am of the prima facie view that the case appears to be debatable. Petitioner is not involved in any other case. He is in custody since 14.02.2020.

In view of above, this petition is allowed. Petitioner is ordered 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.

January 19, 2021
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(RAJ MOHAN SINGH)
JUDGE

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