

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

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**CRM-M-34037-2021
Decided on : 23.09.2021**

Karan Kumar @ Kiran

... Petitioner(s)

Versus

State of Punjab

... Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

(Through Video Conferencing)

PRESENT: Mr. Sangram Singh Saron, Advocate
for the petitioner(s).

Mr. Luvinder Sofat, AAG, Punjab
assisted by ASI Tara Ram.

MANJARI NEHRU KAUL, J. (Oral)

This is the second filed under Section 439 Cr.P.C. for grant of bail to the petitioner in case FIR No. 95, dated 01.11.2020, under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short 'the Act'), registered at Police Station Behram, District SBS Nagar, Punjab.

Learned counsel for the petitioner submits that there had been non-compliance of the mandatory provisions of Section 50 of the Act by the police party, as no offer of search as mandated under the aforementioned Section, was given to the petitioner. It has been further submitted that there were discrepancies in the ruqa (annexed as Annexure P-3) and the other memos prepared by the police party (annexed with the petition), which were prepared on the spot, as the ruqa was handwritten while the memos were typed, which clearly hinted at his false implication. In support of his contentions, learned counsel has placed reliance upon the judgment of the

Apex Court rendered in **S.K. Raju Vs. State of West Bengal, 2018 (190) AIC 35**. He has prayed that since the investigating officer stands examined, the further incarceration of the petitioner would not serve any purpose.

Per contra, learned State counsel while opposing the prayer and submissions made by the counsel opposite, on instructions from ASI Tara Ram, has submitted that it is a case of chance recovery. He has submitted that the petitioner was riding a motorcycle and on seeing the police party, he tried to turn back. However, he fell down, as a result of which, a bag which was hanging on the handle of his motorcycle also fell down spilling the contraband (540 tablets of Alpra Safe, 4020 capsules of Pervorin Spas, 200 tablets of Tramadol) on the road. It was submitted that in the circumstances, there was no occasion for the police party to give the petitioner any offer as mandated under Section 50 of the Act, since the contraband was visible to one and all. He has further apprised the Court that the trial shall not take much time to conclude, as the remaining witnesses are likely to be examined on the next date of hearing i.e. 14th October, 2021.

In support, learned State counsel while placing reliance upon **Vijyasinh Chandubha Jadeja Vs. State of Gujarat (Crl. Appeal No. 943 of 2005, D/d: 29.10.2010)** and **State of Punjab Vs. Baldev Singh (Crl. Appeal No. 396 of 1990, D/d: 21.7.1999)**, submits that in the facts and circumstances of the instant case, non-compliance of Section 50 of the Act, if any, *per se*, would not vitiate the prosecution case as the alleged contraband already stood exposed after falling down on the road.

I have heard learned counsel for the parties and perused the

material on record.

In the facts and circumstances of the case as enumerated hereinabove, this Court is not inclined to extend the concession of bail, as the petitioner was found in possession of a huge recovery of 540 tablets of Alpra Safe, 4020 capsules of Pervorin Spas, 200 tablets of Tramadol, which admittedly falls within the 'commercial category'.

Petition stands dismissed accordingly. Since the petitioner has been in custody since 01st November, 2020, the trial Court shall endeavour to expedite the trial and conclude the same, preferably, within a period of three months from today.

Petition stands dismissed accordingly. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

(MANJARI NEHRU KAUL)
JUDGE

September 23, 2021

J.Ram

Whether speaking/reasoned: *Yes/No*
Whether Reportable: *Yes/No*