

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

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CRM-M-36241-2020
Date of decision: 14.09.2021

Sukhdev Singh**...Petitioner**

Versus

State of Punjab**...Respondent****CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN**

Present:- Mr. S. K. Bawa, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

(through video conferencing)

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition, filed under Section 439 of the Code of Criminal Procedure, is for grant of regular bail to the petitioner in case FIR No. 0047 dated 22.02.2020, registered under Section 22 of the Narcotic Drugs & Psychotropic Substances Act, 1985 (*for short 'the Act'*) at Police Station Phillaur, District Jalandhar (Rural).

Learned counsel for the petitioner submits that the petitioner is a first offender; he is in judicial custody for the last more than 01 year and 06 months and till date, no prosecution witness has been examined.

Learned counsel for the petitioner further submits that as per allegations in the FIR, the police party, headed by ASI Dharminder Singh, apprehended the petitioner on suspicion that he is carrying some narcotic substance in a polythene bag in his right hand.

Learned counsel further submits that after the petitioner was

allegedly apprehended, he was given an option to be searched either before a Magistrate or a Gazetted Officer, on which, he has given consent memo that he has faith in the complainant/Investigating Officer and he can conduct his personal search.

Learned counsel further submits that after completing the investigation, a ruqa was sent to the police station, therefore, it will be a matter of trial whether provisions of Section 42 of the Act were complied with or not.

Learned State counsel has filed reply by way of affidavit of DSP, Sub Division Phillaur, District Jalandhar (Rural) along with recovery memo and has not disputed the factual position. It is submitted that the petitioner was given an option to be searched before a Magistrate or a Gazetted Officer and when he gave option to be searched by the Investigating Officer then the search was conducted. However, it is not disputed that the petitioner is not involved in any other case and he is in judicial custody for the last more than 01 year and 06 months.

I have heard learned counsel for the parties.

Without commenting upon the merits of the case, considering the aforesaid submissions of learned counsel for the petitioner, 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/Illaqa Magistrate, concerned.

14.09.2021

Waseem Ansari

**(ARVIND SINGH SANGWAN)
JUDGE**

*Whether speaking/reasoned
Whether reportable*

*Yes/No
Yes/No*