

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

**CRM-M-42539-2021  
Date of decision: 26.11.2021**

**Joginder Singh @ Lalu**

**...Petitioner**

**Versus**

**State of Punjab**

**...Respondent**

**CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN**

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

Mr. J. P. 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. 171 dated 21.06.2021, registered under Section 21 of the Narcotic Drugs & Psychotropic Substances Act, 1985 at Police Station City Ferozepur, District Ferozepur.

Learned counsel for the petitioner submits that the police party, headed by ASI Naveen Kumar, apprehended the petitioner while on patrol duty and recovered 50 grams of heroin.

Learned counsel further submits that a perusal of the FIR would reveal that after the petitioner was apprehended on suspicion, without complying with the provisions of Section 42 of the NDPS Act and without giving a notice under Section 50 of the NDPS Act, the recovery was effected by the same Investigating Officer and after effecting the recovery, a ruqa was sent to the police station, therefore, it will be a matter of trial whether a proper procedure was followed or not.

Learned State counsel has filed the custody certificate, as per which, the petitioner is in judicial custody for the last more than 05 months and he is facing trial in four other cases.

In reply, learned counsel for the petitioner has referred to judgments dated 18.02.2017, 14.05.2018 and 08.03.2018 (Annexures P-2 to P-4), vide which the petitioner stands acquitted in three cases and vide order dated 07.03.2017 (Annexure P-5), the petitioner stands discharged in one other case.

Learned counsel for the petitioner further submits that in all the cases, the recovery effected was of non-commercial quantity as the petitioner himself is a drug addict.

After hearing learned counsel for the parties, without making any opinion on the merits of the case, considering the facts that petitioner stands acquitted in aforesaid three cases and in one case he stands discharged and also in view of the fact that it will be a matter of trial whether the provisions of Sections 42 and 50 of the NDPS Act were properly complied with or not, the present petition is allowed and the petitioner is directed to be released on regular bail, subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.

26.11.2021

*Waseem Ansari*

(ARVIND SINGH SANGWAN)  
JUDGE

*Whether speaking/reasoned*

*Yes/No*

*Whether reportable*

*Yes/No*