

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

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**CRM-M-39375-2020
Decided on : 10.02.2021**

Jagwinder Singh alias Jagga

. . . Petitioner(s)

Versus

State of Punjab

. . . Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

PRESENT: Mr. N.S. Sodhi, Advocate,
for the petitioner(s).

Ms. Monika Jalota, DAG, Punjab
assisted by ASI Darshan Singh.

MANJARI NEHRU KAUL, J. (Oral)

This is the second petition filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No. 15, dated 28.01.2020, under Sections 22, 25 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short 'NDPS Act'), registered at Police Station Dakha, District Ludhiana Rural.

Learned counsel for the petitioner contends that it was a case of secret information, wherein, the alleged recovery of 99 strips intoxicant tablets mark CLOVIDOL-100 containing 10 tablets each total 990 tablets and 02 strips of intoxicants tablets mark TRICARE-SR containing 10 tablets each total 20 tablets, was shown to have been effected from him. Learned counsel submits that the mandatory provisions of the NDPS Act were given a go by and not complied with, which lends credence to the false implication of the petitioner in the case in hand.

Per contra, learned State counsel while opposing the prayer and submissions made by learned counsel for the petitioner, on instructions from ASI Darshan Singh, has submitted that soon after the secret information was

received by the police party, a rukka was duly sent, hence, there was indeed compliance of Section 42 of the NDPS Act. She has further stated that the question of compliance of Section 50 of the NDPS Act, would not arise in the instant case, as the recovery was not effected from the personal search of the petitioner, but from a bag which was hanging on the motorcycle, which the petitioner was riding when he was stopped by the police party. She has also submitted that there has been no substantial change in circumstances subsequent to the withdrawal of the previous petition filed and withdrawn by the petitioner under Section 439 Cr.P.C.

Heard.

On a pointed query put to the learned counsel for the petitioner as to what was the substantial change of circumstances, which would warrant the acceptance of the instant petition, it has been submitted by the learned counsel that challan has been filed subsequent to the withdrawal of the earlier petition.

However, learned State counsel has vehemently controverted the aforesaid submission made by learned counsel for the petitioner *qua* the change of circumstances subsequent to the withdrawal of the earlier petition on 14th July, 2020. She has reiterated that in fact there has been no change in the circumstances, as the challan was presented prior to the dismissal of the earlier petition on 14th July, 2020.

Learned counsel for the petitioner has, therefore, failed to satisfy this Court *qua* any substantial change of circumstances subsequent to the withdrawal of the previous petition under Section 439 Cr.P.C. on 14th July, 2020, which would warrant acceptance of his prayer for the grant of regular bail. Still further, this Court cannot go into the submissions of, and arguments raised by the learned counsel for the petitioner *qua* non-compliance of the mandatory provisions of the NDPS Act, which can be and shall be appreciated

only when the evidence is adduced before the trial Court.

In the facts and circumstances of the case, I do not find any ground to extend the concession of regular bail to the petitioner. Therefore, finding no merit in the instant petition, same stands dismissed. However, anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

(MANJARI NEHRU KAUL)
JUDGE

February 10, 2021

J.Ram

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