

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

CRM-M-40720-2020

Date of Decision : 16.08.2021

Kuldeep Singh

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present: Mr. Amit Choudhary, Advocate,
for the Petitioner.

Mr. Bhupender Singh, Deputy Advocate General, Haryana
assisted by ASI Jitender Singh.

SUDIP AHLUWALIA J. (ORAL)

The instant Petition has been filed under Section 439 of the Code of Criminal Procedure seeking Regular Bail on behalf of the Petitioner in case FIR No.172, dated 23rd July, 2020, registered under Sections 22(c)/61/65 of the NDPS Act, 1985, at Police Station Sadar Ratia, District Fatehabad.

2. Contention of Ld. Counsel for the Petitioner is that his Client is innocent and has been motivatedly framed by the Police Authorities in this false case on account of their grudge against the Petitioner's brother namely Virender Singh, who runs a Chemist's Shop under the name and style of "Kuldeep Medicos", after the said brother had declined to accept some unlawful demand put to him. To support this contention, attention of the Court had been drawn to a glaring discrepancy in the investigation papers.

As already noted in the previous order passed on 2nd August, 2021, the Site Plan (Annexure P-5) from where the Petitioner was allegedly apprehended had been drawn up almost one hour before the information regarding the occurrence was received in the Police Station, and also, the Disclosure Statement (Annexure P-6) of the Petitioner was recorded by the Investigating Officer on 24th July, 2020 on the basis of which the second Site Plan (Annexure P-7) showing the spot of recovery, had been already drawn up a day earlier.

3. In addition, it had been argued on behalf of the Petitioner that the Naib Tehsildar in whose presence the recovery was allegedly effected was not an authorized person/Gazetted Officer within the meaning of Section 50 of the NDPS Act.

4. Today, Ld. State Counsel in compliance of the Court's direction has sent up a copy of the Government Order from which it transpires that the concerned Naib Tehsildar Shri Bhajan Dass had actually been authorized by the Deputy Commissioner, Fatehabad vide the Order dated 29th February, 2020.

5. To that extent, this second contention raised on behalf of the Petitioner regarding the incompetency of the Naib Tehsildar in terms of Section 50 of the NDPS Act is not convincing.

6. However, Ld. State Counsel inspite of seeking instructions from the Investigating Agency has been unable to explain how the first Site Plan was drawn up even before information of the occurrence had reached

the Police Station and how the second Site Plan which was ostensibly drawn up on the basis of Disclosure Statement of the accused was actually one day prior in point of time before such statement was recorded.

7. In these circumstances, without commenting upon the other merits of the case and considering that there is no history of the Petitioner being involved in any other case under the NDPS Act, as also the fact that the trial in the case is yet to commence; even the Charges have not been framed so far, this Court is of the opinion that further detention of the Petitioner, at this stage, for an indefinite period is not called for. As such, he is ordered to be released on bail to the satisfaction of the Ld. Trial Court/ Duty Magistrate concerned.

8. Disposed off.

August 16, 2021
Dpr

(SUDIP AHLUWALIA)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No