

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

**CRM-M-48620-2021
Date of decision: 26.11.2021**

Ram Chander

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Sumeet Pal Singh Khaira, Advocate
for the petitioner.

Mr. Joginder Pal 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. 22 dated 13.03.2021, registered under Sections 22 and 25 of the NDPS Act, 1985 at Police Station Sadar Jagraon, District Ludhiana, Punjab.

Learned counsel for the petitioner submits that as per allegations in the FIR, registered at the instance of SI Jarnail Singh, it is stated that while on patrol duty, a secret information was received that petitioner Ram Chander and Jaswinder Singh are doing the business of selling intoxicant tablets and are coming on a motorcycle and they can be apprehended with intoxicant tablets. Thereafter, on receiving such information, a ruqa along with a report was prepared under Section 42 of the NDPS Act and was sent to police station for registration of the FIR. Thereafter, both the accused persons were arrested and recovery was effected.

Learned counsel for the petitioner has referred to a special report, prepared under Section 42 of the NDPS Act, which bears the FIR number as well as complete details. It is submitted that the manner in which this notice has been prepared raises a suspicion as to how the FIR number has come in the ruqa, which is sent for registration of the FIR and the FIR is to be registered subsequently on receiving the ruqa.

Learned counsel further submits that the petitioner is in judicial custody for the last more than 08 months and he is not involved in any other case. It is further submitted that it will be a matter of trial whether the provisions of Section 42 of the NDPS Act were properly complied with or not.

Learned State counsel has filed the custody certificate and submitted that the notice, prepared under Section 42 of the NDPS Act, is a typed document, on which, the FIR number was filled up later on by using a pen.

Be whatsoever, after hearing learned counsel for the parties and going through other documents including recovery memo, it is found that the FIR number is mentioned in all these documents, though they were prepared prior to registration of the FIR, therefore, it will be a matter of trial whether the provisions of Section 42 of the NDPS Act were properly complied with or not.

Accordingly, considering the aforesaid facts and also in view of the fact that petitioner is in judicial custody for the last more than 08 months and he is not involved in any other case conclusion of trial is likely to take some time as out of total 10 prosecution witnesses, none has been examined

so far, 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