

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M No.44755 of 2019
Date of decision:06.09.2021

Rajdeep Singh @ Raji

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Vishal Singh, Advocate
for the petitioner.

Mr. Sandeep Singh Deol, DAG, Punjab.

SUVIR SEHGAL J.

Heard through video conferencing.

Instant petition has been filed by the petitioner under Section 439 of Cr.P.C. for grant of regular bail in case FIR No.145, dated 07.07.2019 registered under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, (for short - "NDPS Act"), 1985, at Police Station City Rajpura, District Patiala, Annexure P-1.

As per the version of the prosecution, FIR, Annexure P-1, has been registered on the complaint of ASI Nishan Singh, C.I.A. on the allegation that on 06.07.2019, when he was on routine checking with his colleagues, near Gagan Chowk overbridge, they tried to stop a Sardar gentleman, but he ran and a black rucksack fell on the road spilling its contents. Some strips of tablets fell out of the bag and the man, who later

identified himself as Rajdeep @ Raji (present petitioner) was apprehended after a chase.

Counsel for the petitioner submits that the petitioner has been falsely framed and no recovery was effected from him. He submits that even though the petitioner is alleged to have been caught in the heart of the city yet no independent witness has joined the investigation. By placing reliance upon the judgment of a Co-ordinate Bench of this Court in **Rajvir Singh @ Raju vs. State of Punjab 2018 (4) RCR (Criminal) 375**, counsel contends that there has been a violation of mandatory provision of the Section 50 of the NDPS Act. Counsel contends that the petitioner, who has clean antecedents, deserves to be enlarged on bail.

Opposing the petition, learned State counsel upon instructions from ASI Prem Singh, has opposed the petition on the basis of the FSL report, Annexure R-1, which has been submitted alongwith the status report filed by way of an affidavit of Deputy Superintendent of Police, Sub Division Rajpura, District Patiala. He submits that 11,400 tablets of Diphenoxylate Hydrochloride & Atropine Sulphate Tablets IP Lomotil, weighing 729 grams have been recovered from the petitioner and as the contraband falls in the commercial category, the bar under Section 37 of the NDPS Act is attracted. Still further, he submits that recovery has not been effected from the person of the petitioner, therefore, the provision of Section 50 of the NDPS Act does not apply.

Having considered the facts and circumstances of the case, this Court is of the view that though the argument as to whether compliance of Section 50 of the NDPS Act is required to be made, will be considered

by the trial court, if it is raised, however, since recovery effected from the petitioner falls within ambit of commercial quantity as prescribed in the notification issued under the provisions of the NDPS Act, the rigor of Section 37 of the NDPS Act would apply and the petitioner cannot be granted the concession of regular bail. Still further, it may be noticed that the petitioner was arrested on 07.07.2019 and has been ordered to be released on interim bail by this Court vide order dated 24.10.2019, which order has continued till date despite the fact that an exceptionally heavy recovery has been made. In view of the provisions of Section 37, the petition for grant of regular bail deserves to be rejected.

Petition is dismissed.

As the accused-petitioner has been on interim bail since 24.10.2019, he is directed to surrender on or before expiry of two weeks from the date of this order.

It is clarified that any observation made hereinabove shall not be construed as an expression of opinion on the merits of the case.

06.09.2021

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(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No