

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

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**CRM-M-47151-2019
Date of decision: 17.03.2021**

VARINDER SINGH

.....Petitioner

Versus

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Karamjit Singh Mangat, Advocate
for the petitioner.

Mr. Rana Harjasdeep Singh, DAG, Punjab
for the respondent-State.

ARUN KUMAR TYAGI, J. (ORAL)

(The case has been taken up for hearing through video conferencing.)

The petitioner has filed the present petition under Section 482 of the Code of Criminal Procedure, 1973 for setting aside order dated 27.05.2019 passed by learned Additional Sessions Judge, Gurdaspur in case FIR No. 13 dated 15.03.2015 registered under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'the NDPS Act') at Police Station Ghanie Ke Bangar.

Briefly stated, the facts giving rise to the filing of the present petition are that the petitioner was charge-sheeted by S.H.O. Police Station Ghanie Ke Bangar to face trial under Section 22 of the NDPS Act for allegedly having kept in his conscious possession intoxicant powder containing salt Alprazolam weighing 350 grams in the area of bridge Canal Village Reali Kalan. The petitioner was acquitted vide judgement dated 04.02.2019 passed by learned Judge,

Special Court, Gurdaspur. At the time of arrest of the petitioner, amount of Rs. One Lakh was seized by police on his personal search. After his acquittal, the petitioner submitted application dated 13.03.2019 to S.H.O. Police Station Ghanie Ke Bangar seeking refund of the above said amount lying in the custody of the police on which the petitioner was asked to seek orders from the Court.

The petitioner filed application before learned Additional Sessions Judge, Gurdaspur for refund of amount of Rs. One lakh to him which was dismissed by learned Additional Sessions Judge, Gurdaspur on 27.05.2019 on the grounds that after demonetization the amount was to be released only by Reserve Bank of India that too with certain limitation but the application had been filed after considerable delay of demonetization.

Feeling aggrieved, the petitioner has filed the present petition for setting aside of the above said order.

The petition has been opposed by respondent No. 1-State in terms of reply filed by way of affidavit of Balbir Singh PPS, Deputy Superintendent of Police, Sub Division Fatehgarh Churian, Police District Batala.

I have heard learned Counsel for the petitioner and learned State Counsel and gone through the relevant record.

The petitioner was charge-sheeted by S.H.O. Police Station Ghanie Ke Bangar to face trial under Section 22 of the NDPS Act for allegedly having kept in his conscious possession intoxicant powder containing salt Alprazolam weighing 350 grams in the area of bridge Canal Village Reali Kalan and on trial the petitioner was acquitted vide

judgment dated 04.02.2019 passed by learned Judge, Special Court, Gurdaspur.

Admittedly, the amount of Rs. One lakh was seized by the police on personal search of the petitioner which was not claimed to be drug money and was therefore, liable to be refunded to the petitioner on filing of appropriate application by him.

Vide order dated 28.12.2016 passed by learned Judicial Magistrate First Class, Batala the amount was ordered to be deposited in Bank. In his affidavit Balbir Singh PPS, Deputy Superintendent of Police, Sub Division Fatehgarh Churian, Police District Batala has admitted that the amount was deposited in State Bank of India, Batala in Bank Account number CA36363923007 in the name of Senior Superintendent of Police, Batala.

Since, the amount had been deposited in the bank, the questions of impermissibility of refund due to release of the amount by Reserve Bank of India being necessary and there being considerable delay in filing of the application from demonetization did not arise and the impugned order suffers from material illegality and is liable to be set aside.

Accordingly, the petition is allowed and the impugned order 27.05.2019 is set aside and amount of Rs. One Lakh seized by the police on personal search of the petitioner is ordered to be refunded to the petitioner alongwith interest accrued on the same within 15 days from the date of receipt of certified copy of this order.

A copy of this order be sent to the Senior Superintendent of Police, Batala and S.H.O. Ghanie ke Bangar for requisite

compliance.

Compliance report be filed in the Registry within next 15 days and the same be put up before this Court on judicial side for such orders as made be considered appropriate.

17.03.2021

kavneet singh

(ARUN KUMAR TYAGI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No