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

(Through video-conferencing)

**1. CRM-M No.51493 of 2019
Date of Decision: 26.08.2021**

**GURDIT SINGH ALIAS MEETIPetitioner
Vs**

STATE OF PUNJABRespondent

2. CRM-M No.1220 of 2020

**SATPAL SINGH @ SATTUPetitioner
Vs**

STATE OF PUNJABRespondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. G.S. Sandhu, Advocate
for the petitioner in CRM-M No.51493 of 2019.

Mr. K.S. Brar, Advocate
for the petitioner in CRM-M No.1220 of 2020.

Mr. Bhupender Beniwal, Asstt. A.G., Punjab.

RAJ MOHAN SINGH, J.(Oral)

Vide this common order, CRM-M Nos.51493 of 2019 and 1220 of 2020 are being decided. Since both the cases have arisen out of same FIR, therefore, facts are being culled out from CRM-M No.51493 of 2019.

Petitioner(s) seeks grant of regular bail under Section 439 Cr.P.C in case bearing FIR No. 60 dated 03.04.2019,

registered under Section 22 of the NDPS Act, 1985 at Police Station Sangat, District Bathinda.

Allegations are that in search of bad elements, when the police party reached at bridge of drain of village Jassi Baghwali, then three persons under the tree were distributing something amongst themselves which was lying on a piece of cloth. They were apprehended on the basis of suspicion. Intoxicant tablets were recovered from them. Role of all the three accused is similar as they were found sitting under a tree and were distributing something on a piece of cloth.

Learned counsel for the petitioner(s) submit that co-accused Gurtej Singh has been released on regular bail by the High Court by confirming the interim bail granted to him vide order dated 20.11.2019 passed in CRM-M No.38500 of 2019.

Learned counsel further submits that both the petitioners and others were apprehended on the basis of suspicion by SI Bogha Singh. On seeing the intoxicant tablets which were clearly visible on the piece of cloth, the Investigating Officer recovered different types of tablets totalling 2050 tablets in number.

Learned counsel further submits that there is non-compliance of Section 50 of the NDPS Act. Reference has been

made to the order passed in the case of co-accused Gurtej Singh. The same reads as under:-

Prayer in this petition is for grant of regular bail to the petitioner in case FIR No. 60 dated 03.04.2019, registered under Section 22 of the NDPS Act, 1985 at Police Station Sangat, District Bathinda.

On 16.09.2019, while granting interim bail to the petitioner, the following order was passed:

“.....Learned counsel for the petitioner submits that as per the allegations in the FIR, SI Bogha Singh, along with ASI Gurcharan Singh and other police officials, was on patrol duty and when they reached near village Jassi Baghwali, they saw that three persons were distributing something by keeping the same on a cloth lying on the ground. On suspicion, SI Bogha Singh apprehended all the aforesaid three persons and after they disclosed their respective names, he saw that intoxicant tablets were clearly visible lying on the cloth. Thereafter, he recovered the different types of tablets, total 2050 tablets in number, and sealed the same. Learned counsel for the petitioner further submits that there is a clear non-compliance of the provisions of Section 50 of the NDPS Act as neither any notice was served to the accused persons nor any Gazetted Officer or Magistrate was called at the spot.

Adjourned to 22.10.2019.

The Senior Superintendent of Police,

Bathinda is directed to remain present in this Court on the next date of hearing along with an affidavit after verifying the manner in which the investigation has been conducted in this case. Till the next date of hearing, the petitioner is ordered to be released on interim bail, subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned.”

Learned State counsel submits that in pursuance to previous order, S.S.P., Bathinda could not be present today as he was in personal difficulty, however, Mr. Gurwinder Singh Sangha, S.P. (D), Bathinda is present in Court.

Learned State counsel, on the basis of the affidavit of S.S.P., Bathinda, which is on record, submits that since it was a case of chance recovery, therefore, mandatory provisions of Section 50 of the NDPS Act will not apply to the present case. It is further submitted that necessary instructions have already been issued to all the investigating officers, who are conducting investigation in cases under the NDPS Act, to properly follow the prescribed procedure.

In view of the above, the present petition is allowed and order dated 16.09.2019, granting interim bail to the petitioner, is hereby made absolute.

20.11.2019

Waseem Ansari

**(ARVIND SINGH SANGWAN)
JUDGE”**

Learned counsel for both the petitioners seek parity with the co-accused Gurtej Singh on the premise that the petitioner-

Gurdit Singh @ Meeti has been granted interim bail vide order dated 10.12.2019 and petitioner-Satpal Singh @ Sattu has been granted interim bail vide order dated 19.02.2020.

Parity of the cases of the petitioner(s) viz-a-viz. the co-accused Gurtej Singh has not been disputed by learned State counsel.

For the reasons recorded hereinabove, I deem it appropriate to enlarge both the petitioners on regular bail, without adverting to the merits of the case.

In view of above, both the petitions are allowed. The orders dated 10.12.2019 and 19.02.2020, granting interim bail to the petitioner(s) are hereby made absolute.

Nothing expressed hereinabove would be construed to be an expression of opinion on merits of the case.

August 26, 2021

Atik

Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No