

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

CRM-M-7434-2021
Date of decision: 14.03.2022

Sukha Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Gurpal Singh Sandhu, 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. 73 dated 29.10.2018, registered under Section 22 of the NDPS Act, 1985 at Police Station Sadar Abohar, District Fazilka.

Learned counsel for the petitioner submits that as per allegations in the FIR, registered at the instance of ASI Jalandhar Singh, it is stated that while on patrol duty, a person was seen coming on a motorcycle, who was signalled to stop, however, he became perplexed and tried to turn back his motorcycle but the engine of the motorcycle stopped. Thereafter, on the basis of suspicion, he was apprehended and was given a notice to be searched either before a Gazetted Officer or a Magistrate, on which, he reposed faith in the Investigating Officer and a consent memo was prepared and recovery of 1010 tablets was effected.

Learned counsel for the petitioner further submits that the petitioner is a first offender; he is in judicial custody for the last 03 years, 04 months and 13 days and it will be a matter of trial whether the provisions of Section 42 of the NDPS Act were properly complied with or not as the complainant, who was the Investigating Officer, himself conducted the investigation and despite the fact that the petitioner was apprehended on suspicion, no *ruqa* was sent to the police station for registration of the FIR at the relevant time.

Learned counsel further submits that the same Investigating Officer gave the notice under Section 50 of the NDPS Act and obtained the consent of the petitioner, who reposed faith in the Investigating Officer, and then himself conducted the search and personal search and only thereafter, an information was sent to the police station.

Learned State counsel, on the basis of the custody certificate, has not disputed the factual position. As per custody certificate, the petitioner is in judicial custody for the last 03 years, 04 months and 13 days and he is not involved in any other case.

After hearing learned counsel for the parties, without making any comment on the merits of the case, considering the aforesaid facts and circumstances, the present petition is allowed. 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.

14.03.2022

Waseem Ansari

**(ARVIND SINGH SANGWAN)
JUDGE**

*Whether speaking/reasoned
Whether reportable*

*Yes/No
Yes/No*