

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

212

CRM-M-37583-2022

Date of Decision : **September 16, 2022**

KULDEEP SINGH

.....Petitioner

VERSUS

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

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

Mr. Kunal Vinayak, AAG, Punjab.

JASGURPREET SINGH PURI. J. (Oral)

The present 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.01 dated 2.1.2022 under Sections 22/25/27 and 29 of NDPS Act, 1985, registered at Police Station Bhikhi District Mansa.

It has been submitted by the learned counsel for the petitioner that the petitioner is in custody from 2.1.2022. The investigation of the case has been completed and challan has been presented and even charges have been framed. He further submitted that it is a case where the petitioner is having clean antecedents and is not involved in any other case and he was sitting on the conductor seat of the car from where there was an alleged recovery of 1500 tablets of tramadol and two persons were sitting at the rear seat of the car and further referred to Annexure P-2 to state that there was a joint offer to four persons under Section 50 of NDPS Act. He has referred to judgment of the Hon'ble

Supreme Court in **State of Rajasthan Vs. Parmanand and another 2014 (2) SCC (Crl.) 563** to contend that such joint offer was bad in law and did not comply with the provisions of Section 50 of NDPS Act since individual offer has to be given. He further submitted that in view of the aforesaid position the bar contained under Section 37 of NDPS Act will not apply in the present case since the mandatory condition of Section 50 of NDPS Act was not complied with.

On the other hand, the learned State counsel has submitted that it is correct that the petitioner is in custody from 2.1.2022 and the petitioner is not involved in any other case. He has also stated that it is also correct that joint offer was given to 4 persons under Section 50 of NDPS Act.

I have heard the learned counsels for the parties.

The petitioner has faced incarceration for about 8 months. The investigation of the case has been completed. Annexure P-2 which is a notice under Section 50 of NDPS Act would show that joint offer was given to 4 persons including the petitioner and, therefore, as per the aforesaid judgment of the Hon'ble Supreme Court in Parmanand's case (Supra) the mandatory provisions of Section 50 of NDPS Act prima facie does not seem to have been complied with.

In view of the aforesaid position, this Court is prima facie satisfied at this stage that in view of prima facie violation of Section 50 of NDPS Act there are reasons to believe that the petitioner is not guilty of the offence. Apart from the same, the petitioner is stated to be not involved in any other case nor is the case of the State that in case the

petitioner is released on bail then he may repeat the offence or may abscond from justice. Therefore, both the conditions contained under Section 37 of NDPS Act for making a departure from the bar contained therein remain satisfied.

Consequently, the present petition is allowed. The petitioner is ordered to be released on bail on furnishing of bail bonds and surety bonds to the satisfaction of concerned Chief Judicial Magistrate/trial Court/Duty Magistrate.

However, anything observed here-in-above shall have no effect on the merits of the case and is meant for deciding the present petition only.

September 16, 2022	(JASGURPREET SINGH PURI)
ajay-1	JUDGE
Whether speaking/reasoned.	: Yes/No
Whether Reportable.	: Yes/No