

S. No.221

2023:PHHC:160351

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

CRM-M-45241 of 2023

Date of Decision:14.12.2023

Baljit Singh @ Lucky

.....Petitioner

Vs.

State of Punjab

.....Respondent

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Ms. Jaspreet Kaur Sandhu, Advocate
for the petitioner.

Mr. R.S. Khaira, DAG, Punjab.

DEEPAK GUPTA, J. (Oral)

By way of present petition filed under Section 439 Cr.P.C., petitioner has prayed for grant of regular bail in case FIR No.120 dated 12.12.2022 registered under Section 21 of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') at Police Station Daba, Ludhiana.

As per prosecution allegations, 265 grams of heroin along with 20 empty zip lock pouches, one electronic scale and ₹25,000/- as drug money was recovered from the possession of the petitioner on 12.12.2022.

It is contended by learned counsel for the petitioner that petitioner has been falsely implicated. Learned counsel has given details as to how the petitioner was apprehended earlier and was later on shown to have been apprehended. Even the apprehension of the petitioner at a prior stage was captured in a CCTV footage. Learned counsel further points out that after serving notice upon the petitioner under Section 50 of the NDPS Act to the effect that he has right to get his search conducted from some Gazetted Officer or Magistrate,

ASI Amarjit Kumar, who apprehended the petitioner, conducted the search himself which is in gross violation of Section 50 of the NDPS Act.

Learned State Counsel could not refute the afore-said contentions.

As per the custody certificate placed on record by learned State Counsel, petitioner is in custody for the last 01 year and 04 days with no criminal antecedents.

Having regard to afore-said facts and circumstances, but without commenting anything on the merits of the case, the present petition is allowed. Petitioner is admitted to bail on his furnishing bail bonds and surety bonds to the satisfaction of the learned trial Court/ Duty Magistrate concerned.

At this stage, learned counsel for the petitioner submits that Section 21 of the NDPS Act has been mentioned in the headnote and prayer clause of the petition whereas challan has been presented under Section 21(c) of the NDPS Act. and, therefore, bail granted to the petitioner be considered to be granted under Section 21(c) of the NDPS Act.

Ordered accordingly.

December 14, 2023

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Whether Speaking/reasoned

Whether Reportable

(DEEPAK GUPTA)

JUDGE

Yes/No

Yes/No