



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

CRM-M No.30833 of 2024 (O&M)

Date of decision: 14th January, 2025

Sukhwinder Singh

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Saurav Bhatia, Advocate for the petitioner.

Mr. Amit Rana, Sr. Dy. Advocate General, Punjab
for the respondent/State.

MANJARI NEHRU KAUL, J.

1. This is the second petition filed under Section 439 Cr.P.C. seeking the concession of bail to the petitioner in case bearing FIR No.257 dated 13.10.2022 under Sections 21-C & 25 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (Section 25 of the NDPS Act deleted later on) registered at Police Station Special Task Force, SAS Nagar (Mohali), District STF Wing.

2. On the last date of hearing, learned counsel for the petitioner limited his arguments to the alleged non-compliance with the provisions of Section 50 and 50-A of the Cr.P.C., by drawing the attention of this Court to the arrest-memo, annexed as Annexure P-5. It was vehemently argued that a bare perusal of the arrest-memo reveals a clear and flagrant violation of the mandatory provisions, which guarantee the petitioner's

right to be informed of the grounds of arrest, a fundamental protection under the Cr.P.C. and the Constitution of India.

3. Learned counsel for the petitioner placed reliance on the judgment in '**Prabir Purkayastha vs. State (NCT of Delhi) 2024 INSC 414**', wherein the Hon'ble Supreme Court held that the right to be informed about the grounds of arrest flows from Article 22 (1) of the Constitution of India. It was argued that any failure to comply with these provisions vitiates the legality of the arrest. Learned counsel further contended that in the present case, the non-compliance with Sections 50 and 50-A of the Cr.P.C. rendered the arrest of the petitioner illegal and amounted to a violation of his right to personal liberty.

4. Per contra, learned State counsel opposed the submissions made by the petitioner and drew the attention of this Court to the consent memo, annexed as Annexure P-7. It was submitted that the petitioner was apprehended on the spot based on secret information received by the Investigating Officer. The provisions of Section 50 of the Cr.P.C. were duly complied with, as the petitioner was informed of the grounds of arrest prior to being searched.

5. It was further argued by the learned State counsel that the Investigating Officer informed the petitioner about his legal right to be searched in the presence of a Gazetted Officer or a Magistrate. The petitioner consented to the search in the presence of a Gazetted Officer, as is evident by the duly prepared and signed consent-memo. The arrest-memo, Annexure P-5, also demonstrated that the petitioner was

informed of his right to intimate a relative about his arrest. Subsequently, the brother of the petitioner was informed as per his request.

6. Learned State counsel also highlighted that a recovery of 1 kg of Heroin, classified as commercial quantity under the NDPS Act, was made from the petitioner following his interception while driving a vehicle. The petitioner was already on bail in another case under the NDPS Act and booked in a case under Section 174-A of the IPC. Learned State counsel argued that given the petitioner's past conduct, there was a reasonable apprehension that he might continue engaging in drug trafficking or attempt to abscond.

7. After hearing learned counsel for the parties and carefully perusing the relevant material on record, this Court does not find any merit in the present petition. The reliance placed by the learned counsel for the petitioner on **Prabir Purkayastha's case** (Supra) is misplaced. That case involved a raid and arrest under provisions of the Unlawful Activities (Prevention) Act, 1967 (UAPA), and the Prevention of Money Laundering Act, 2002 (PMLA), which require specific written communication of the grounds of arrest. However, the present case falls within the scope of the Cr.P.C., where Section 50 mandates that the grounds of arrest be "*communicated*" to the arrested person and in the present case this requirement was met.

8. Both the arrest-memo (Annexure P-5) and the consent-memo (Annexure P-7) corroborate that the petitioner was duly informed

of the grounds of arrest, his right to intimate a relative, and his right to be searched in the presence of a Gazetted Officer or a Magistrate.

9. The facts of this case are distinguishable from **Prabir Purkayastha’s case** (Supra) as the petitioner was apprehended on the spot, with huge recovery of contraband made from him, whereas the latter involved a raid.

10. Accordingly, the present petition is dismissed. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

(MANJARI NEHRU KAUL)
JUDGE

January 14, 2025
rps

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