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**(1996) 02 P&H CK 0079**

**In the Punjab And Haryana At Chandigarh**

**Case No : Criminal Miscellaneous No. 222-M of 1996**

Risala

APPELLANT

Vs

State of Haryana

RESPONDENT

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**Date of Decision : 16-02-1996**

**Acts Referred:**

**Citation :** (1996) 2 AICLR 267 : (1996) 1 CurLJ 399 : (1996) 2 RCR(Criminal) 707

**Hon'ble Judges :** S.C.Malte, J

**Advocate :** Varinder Singh, R.M. Singh, Advocates for appearing Parties

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## **Judgement**

S.C.Malte, J.

1. Petitioner is facing charge under the Narcotic Drugs and Psychotropic Substances Act, 1985. The short question raised before me was that the police officer, who had accosted the accused and searched him and seized the contraband has undertaken further investigation. Such investigation carried by the police officer, who had initiated the First Information Report also, was not approved. In support of that, my attention was invited to decision by the single Bench of this Court, passed in Criminal Appeal No. 3SB of 1987 (Parkasha son of Budh Ram v. The State of Haryana). In that case, His Lordship approved the rulings given in case of Gian Chand v. The State of Rajasthan, 1993 CrL.J. 3716 and the case of Darshan Kumar v. State of Rajasthan, 1991 CrL.J. 737 NOC 28. The view taken by his Lordship in the above mentioned cases finds further support from the recent ruling in case of Megha Singh v. The State of Haryana, A.I.R. 1995 Supreme Court 2339. In that case, a country made pistol was recovered from the accused and he was prosecuted for the offences punishable under the TADA Act. Their Lordship of the Supreme Court disapproved the investigation by the same police officer who had arrested the accused and took his personal search and recovered the arm in question. In the present case the Assistant Sub Inspector Kattar Singh had searched the accused and seized the contraband and had sent the First Information Report. In the concluding part of

the First Information Report, he has stated that he was busy in investigation of the case. Such investigation raised debatable point in view of the rulings mentioned above.

2. The Deputy Advocate General, Haryana submitted that inbuilt check has been provided in the Narcotic Drugs and Psychotropic Substances Act itself in order to rule out the possibility of any doubt regarding the reliability of the truthfulness of the seizure and the investigation. In that context, he brought my attention to Sections 42, 50 and 52 of the Code of Criminal Procedure. It is submitted that the investigation by the officer who seized the article in this case, could not be fatal to the prosecution. However, at this stage of bail, it would not be possible to finally adjudicate the issue, particularly in view of legal propositions, as indicated in the above mentioned reported cases. Therefore, at this stage, the petitioner is justified in raising the argument that he was at least entitled to bail during trial. The contraband article, namely "Charas" found in this case was weighing 850 grams.

3. Under the circumstances, I am inclined to grant him bail on his executing bail bond and surety bond to the satisfaction of Chief Judicial Magistrate, Hissar and on further conditions that he shall not in any manner tamper with the prosecution witnesses or interfere in the investigation. He shall be cooperating in speedy and smooth disposal of the case.