

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

**CRM-M-6230 of 2015
Date of Decision: 29.04.2015**

AMANDEEP SINGH

..... Petitioner

VERSUS

STATE OF PUNJAB

..... Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. B. S. Baath, Advocate
for the petitioner.

Mr. A. S. Kler, DAG, Punjab.

1. **Whether Reporters of local papers may be allowed to see the judgment ?**
2. **To be referred to the Reporters or not ?**
3. **Whether the judgment should be reported in the Digest?**

RAJ MOHAN SINGH J. (ORAL)

Petitioner seeks regular bail in FIR No.31 dated 05.04.2010 under Sections 22/61/85 of NDPS Act Police Station Khamanon, District Fatehgarh Sahib.

FIR was registered when the police party was going on the track of the canal in search of bad element, then from the front side near the canal rest house of Khamanon, two young man were seeing coming on a motorcycle. On seeing the police party, they perplexed and tried to turn back towards left hand side to Khamanon Kamli side. On the basis of suspicion, they were apprehended by the police.

On the asking, driver told his name as Manoj Kumar @ Sabi, whereas the pillion rider told his name as Amandeep Singh. The pillion rider was carrying a heavy cloth bag. Notice under Section 50 was issued to the accused informing them whether they want to searched before a Magistrate or before Gazetted Officer. They were also made aware about their right of option. Both of them signed the concerned memo and they _____ in the

Investigating Officer. 35 bottles of Recodex Intoxicant medicines were recovered from the right side of basket of motorcycle. From the search of cloth bag held by Amandeep Singh, 25 bottles of Recodex Intoxicant medicines were recovered. Since the accused could not produce any licence/permit or bill for carrying the bottles of Recodex Intoxicant medicines, therefore after following due procedure of sampling etc., the aforesaid case was registered. The petitioner was bailed out which was confirmed on 30.07.2011 by the Special Judge, Fatehgarh sahib. At the time of granting bail, the interpretation was to be seen. As per the prevailing norms, the Investigating Officer gave in writing that the material recovered from the petitioner was of small quantity after receipt of report of FSL, therefore bail was granted to the petitioner.

However, petitioner absented on 16.01.2014 and thereafter surrendered on 19.09.2014. Now the petitioner seeks grant of bail again. Now the bail has been declined by the Sessions Court on the ground that the petitioner has misused the concession of bail already granted to him.

Learned counsel for the petitioner states that the alleged contraband recovered from the petitioner is a manufactured intoxicant medicines and the possession of the same without licence/permission/bill is alleged against the petitioner. Learned counsel relies upon 2014 Vol 1 RCR (CrL.) 437 "Parmanand Vs. State of Haryana, 2014 Vol 1 RCR (CrL.) 715 titled "Ashwani Kumar Vs. State of Punjab" to contend that the Allopathic Drugs containing Narcotic Substance found in possession of the person without licence cannot mean that the person has committed offence under NDPS Act. The petitioner did not possess any licence. The State Government has not issued any instructions that under NDPS Act, any licence is required for storage of Allopathic Drugs containing Narcotic Drugs/Substance.

On the strength of aforesaid, learned counsel prays for grant of regular bail.

However, the aforesaid prayer has been opposed by learned State counsel by explaining the fact that now in view of entire bulk, the recovery comes within the definition of commercial quantity, however earlier bail was granted to the petitioner as per the norms prevailing at that time. Since the petitioner has misused the concession of bail, therefore the benefit of bail should not be advanced to the petitioner.

Without commenting upon merits of this case at this stage, it is to be seen whether possession of such a Intoxicant medicines without licence would fall under the mischief of NDPS Act. The issue would be debatable at trial with reference to precedents on the point. At this stage, let the petitioner be ordered to be released on regular bail subject to his furnishing bail bonds and surety bonds to the satisfaction of Specil Court, Fatehgarh Sahib.

Disposed of.

(RAJ MOHAN SINGH)
JUDGE

29.04.2015
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