

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

CRM M-7287 of 2015

Date of Decision : September 18, 2015

Kuldeep Raj

.....Petitioner

VERSUS

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE T.P.S. MANN

Present : Mr. Abhishek Singla, Advocate
for the petitioner.

Mr. Vikram Bishnoi, Asstt. A.G., Punjab.

T.P.S. MANN, J. (Oral)

Prayer made in the petition is for the grant of regular bail to the petitioner in case FIR No. 135 dated 31.7.2013 under Section 21 of the NDPS Act registered at Police Station Kurali, District SAS Nagar.

As per the prosecution, on 31.7.2013 at about 6.00 p.m., the petitioner was apprehended by a police party headed by ASI Harbhajan Singh as at that time the petitioner was carrying a polythene bag in his right hand and on seeing the police party he became perplexed and tried to escape towards the trees. The search of the bag led to recovery of 25 packets of phenetil, each containing 100 tablets. As the petitioner did not possess any licence or bill in respect of the aforementioned tablets, he was found to have committed the offence punishable under Section 21 of the NDPS Act.

It may not be out of place to mention here that the petitioner had earlier moved this Court for grant of bail by filing CRM M-8363 of 2014 under Section 167 (2) read with Section 439 of the Code of Criminal Procedure but the said application was dismissed on 5.9.2014.

As is clear from the report of the Forensic Science Laboratory, average weight of the tablets which were sent for analysis was found to be 76.4 mgs. As such the total weight of the 2500 tablets recovered from the petitioner comes to 191 gms. The tablets sent for analysis were found to contain Diphenoxylate Hydrochloride as its active ingredient. As the total quantity of the contraband was 191 gms, the same fell within the category of commercial quantity.

Once the petitioner was found in possession of commercial quantity of the contraband, the provisions of Section 37 of the NPDS Act come into play. From the facts and circumstances of the case, it cannot be said that the petitioner has not committed the offence under Section 21 of the NDPS Act.

Resultantly, there is no merit in the petition which is, accordingly, dismissed.

(T.P.S. MANN)
JUDGE

September 18, 2015
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