

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

CRM-M-13726 of 2016
Date of decision : 27.07.2016

Pawan Singh @ Ghuda

..Petitioner

Versus

State of Punjab

..Respondent

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Sanjay Singh, Advocate for the petitioner.

Mr. Luvinder Sofat, AAG, Punjab,
Mr. R.S. Nain, AAG, Punjab.

JITENDRA CHAUHAN, J.

In this petition filed under Section 439 of the Code of Criminal Procedure, the petitioner has sought regular bail in case FIR No.170, dated 23.09.2014, registered under Sections 21 and 22 of the Narcotic Drugs and Psychotropic Substances Act (for short 'the Act'), at Police Station Gate Hakiman, Amritsar.

Learned counsel for the petitioner contends that the recovery has not been effected from the petitioner. The very fact that the recovery was got effected by the ASI himself proves that the recovery has been planted. No opportunity was afforded to the petitioner to get him searched in the presence of Gazetted Officer or Magistrate. He further contends that the petitioner did not misuse the concession of interim bail granted to him and in these circumstances the petitioner deserves the concession of regular bail.

On the other hand, the learned State counsel states that the quantity recovered from the conscious possession of the petitioner falls under the category of commercial quantity.

The petitioner was earlier on interim bail. Report of FSL along with Challan was also enclosed and as per the same, the salt contained Diphenoxylate Hydrochloride. As per NDPS Schedule such contraband exceeding 50 grams falls under the ambit of commercial quantity and in the present case, alleged recovery is of 260 grams of intoxicant powder from the possession of petitioner and vide order dated 18.02.2015 passed by the learned trial Court, the petitioner was granted interim bail subject to FSL report. So after considering the facts and circumstances, since the contraband came under commercial quantity, as per Section 37 of the Act, the interim bail granted to accused was rightly cancelled by learned trial Court.

Considering the facts and circumstances of the case, the present petition is dismissed.

Anything said hereinabove shall not be construed as an expression of opinion on the merits of the case.

27.07.2016
sumit sri

(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned

Yes / No

Whether reportable

Yes / No