

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

CRM-M No. 15088 of 2016 (O&M)

Date of Decision: 09.05.2016

Lachhman Dass

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Mr. Vivek Goel, Advocate
for the petitioner.

Mr. Mikhail Kad, Assistant Advocate General, Punjab
for the respondent/State, assisted by ASI Paramjit Singh.

JASWANT SINGH, J. (ORAL)

Prayer in this petition under Section 439 of Cr.P.C. is for grant of regular bail on behalf of the petitioner/accused-Lachhman Dass in case FIR No. 136, dated 31.07.2015, for offences punishable under Sections 22/61/85 of Narcotic Drugs and Psychotropic Substances Act, registered at Police Station City Kotkapura, District Faridkot.

As per allegations, a recovery of 1000 intoxicating tablets (100 mg. each) was effected from possession of petitioner/accused, which as per FSL report, contains *Alprozolam*.

It is contended that if the said quantity converted into grams, comes to 100 grams; and as per notification, if the recovery is more than 100 grams, renders it commercial in nature, whereas if the recovery is 100 grams or less, it would be non-commercial in nature. It is further contended that petitioner is in custody since 31.07.2015 and the prosecution evidence is at the initial stage. It is also contended that the petitioner is not involved in any other case.

Learned State Counsel, assisted byt ASI Paramjit Singh, does not dispute the custody period of the petitioner and non involvement of the petitioner in any other case. He further states that the prosecution evidence is at the initial stage. He also agrees that recovery of 100 grams would be non-commercial in nature.

Without commenting on the merits of the case, keeping in view the facts noticed above; custody period of the petitioner; prosecution evidence is at the initial stage; non-involvement of the petitioner in any other case; the seized quantity being non-commercial in nature, thus, the bar under Section 37, NDPS Act is not applicable, no useful purpose would be served by keeping the petitioner/accused in custody since the trial is not likely to be concluded in near future, the present petition is allowed and the petitioner is ordered to be released on bail subject to satisfaction of Chief Judicial Magistrate/Duty Magistrate concerned.

May 09, 2016

'dk kamra'

(JASWANT SINGH)
JUDGE