

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

**CRM No. M-2050 of 2016
Date of decision:24.02.2016**

Gurbhej Singh @ Bheja

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA.

Present: Mr. Ashish Aggarwal, Advocate
for the petitioner.

Ms. Manpreet Dhaliwal, AAG, Punjab.

.....

TEJINDER SINGH DHINDSA, J.

The present petition has been filed under Section 439 Cr.P.C. seeking the concession of regular bail to the petitioner in case FIR No.39 dated 31.05.2014, under Sections 22/61/85 of the NDPS Act, registered at Police Station Khalra, District Tarn Taran.

Learned counsel appearing for the petitioner would submit that even as per case of the prosecution, the petitioner on being confronted by a policy party had thrown a polythene bag on the ground and which upon being checked contained 100 grams intoxicating powder.

Since report of the Chemical Examiner was not forthcoming, the petitioner had been granted interim bail on 12.08.2014. Subsequently since report of the Chemical Examiner revealed that the contents of the sample contained Diphenoxylate Hydrochloride, the concession of interim bail was cancelled and the petitioner was taken back in custody on 08.12.2015.

It is the submission made by counsel that recovery has not been effected from the petitioner or his custody but in fact from a polythene bag

lying on the road and as such, it would not amount to recovery from the possession of the accused.

It has also gone uncontroverted that the petitioner did not misuse the concession of interim bail which he had enjoyed from 12.08.2014 till 08.12.2015.

The petitioner is also stated to be not involved in any other case under the NDPS Act.

Learned State counsel upon instructions from ASI Balwinder Singh would apprise the Court that investigation in the case having been completed, challan was presented and even charges have been framed. No prosecution witness has been examined till date. The trial, as such, is at the very initial stage and would take time to conclude.

Without making any observations on merit, prayer is allowed. Petitioner be enlarged on bail subject to the satisfaction of CJM/Duty Magistrate, Tarn Taran.

Disposed of.

24.02.2016

Dinesh

**(TEJINDER SINGH DHINDSA)
JUDGE**