

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

Criminal Misc. No.M-33102 of 2016

Date of Decision: 22.12.2016

Suraj Kumar @ Jeens

...Petitioner(s)

Versus

State of Punjab

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

Present:- Mr. Inderjeet Singh Chawla, Advocate
for the petitioner.

Mr. Gurinderjit Singh, DAG, Punjab.

HARI PAL VERMA, J. (Oral)

Prayer in the present petition filed under Section 439 of the Code of Criminal Procedure, 1973 is for grant of regular bail to the petitioner in case FIR No.10 dated 1.2.2016 under Section 22 of the NDPS Act registered at Police Station Division No.2, District Ludhiana City.

Learned counsel appearing on behalf of the petitioner argues that the petitioner is in custody since 1.2.2016 and though report of the Chemical Examiner has not been received in the case, the prosecution has submitted incomplete challan, as provided under Section 173 CrPC. He submits that in absence of the FSL report, it cannot be ascertained whether the alleged contraband recovered from the petitioner falls within the ambit of NDPS Act and trial Court cannot proceed with the matter. Therefore, as long as the Chemical Examiner's report is not received, the petitioner be released on interim bail.

On the other hand, learned State counsel, on instructions from HC John Peter, submits that despite sending reminders, FSL report has not yet been received.

I have heard learned counsel for the parties.

Vide order dated 23.9.2016, the State counsel was directed to make available the FSL report. Thereafter, the matter was adjourned twice i.e. on 19.10.2016 and 16.11.2016. Even as on today, the FSL report is not received. Therefore, in absence of the FSL report, it cannot be ascertained that the recovered contraband falls within the ambit of NDPS Act and therefore, this Court finds that the petitioner deserves to be admitted on interim bail.

Accordingly, without commenting upon the merits of the case but taking into consideration the judgment of this Court in **Inderjeet Singh @ Laddi & ors. v. State of Punjab 2014(3) RCR (Criminal) 953**, the petitioner is ordered to be released on interim bail, on his furnishing adequate bail bonds/surety bonds to the satisfaction of the trial Court.

However, it is made clear that if on receipt of Chemical Examiner's report, it is found that the alleged recovery made from the petitioner falls under the NDPS Act, he shall be taken in custody forthwith.

The petition is disposed of accordingly.

December 22, 2016
AK

(HARI PAL VERMA)
JUDGE

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No