

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.M-33648 of 2016

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Date of decision:19.10.2016

Lucky

...Petitioner

v.

State of Punjab

...Respondent

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Vikas Bali, Advocate for the petitioner.

Ms. Shivali, Assistant Advocate General, Punjab for the
respondent-State.

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Inderjit Singh, J.

The petitioner has filed this petition under Section 439 Cr.P.C. for grant of regular bail in case FIR No.62 dated 2.5.2015 (Annexure-P.1) registered for the offence under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as 'the Act') at Police Station Doraha, District Ludhiana.

Notice of motion to Advocate General, Punjab.

Ms. Shivali, learned Assistant Advocate General, Punjab has put in appearance on behalf of the respondent-State and contested this petition. Police record is also available.

I have heard learned counsel for the petitioner as well as learned Assistant Advocate General, Punjab appearing for the respondent-State and have gone through the record.

From the record, I find that as per the prosecution version the

recovery from the petitioner is stated to be 55 grams of intoxicant powder in a plastic envelope and more than 50 grams falls in commercial quantity.

I have perused the police record. Firstly, there is nothing in the recovery memo or in the 'ruqa' that the powder was weighed by way of electronic/digital scale. There is also nothing in the recovery memo or in the 'ruqa' etc. to show that the weight of the plastic envelope was excluded. In these circumstances, there is every possibility that if the weight of the plastic envelope is excluded, then this quantity will fall in non-commercial quantity. The present petitioner has been in custody since 30.8.2016. The trial of the case will take long time. No useful purpose will be served by keeping the petitioner in custody till the final disposal of the case.

Therefore, keeping in view the facts and circumstances of the present case; without discussing the facts in minute detail and without expressing any opinion on the merits of the case, this criminal miscellaneous petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing personal bond in the sum of ₹50,000/- with one surety in the like amount to the satisfaction of the trial Court/Duty Magistrate.

However, nothing stated herein shall be construed as an expression of opinion on the merits of the case and the learned trial Court shall consider the case on the basis of evidence and material as produced before it.

October 19, 2016.

(Inderjit Singh)
Judge

hsp

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NOTE:	Whether speaking/reasoned:	Yes
	Whether reportable:	No