

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

CRM-M-37377 of 2016

Date of decision: 25.10.2016

Lorance Mashih @ Happy

...Petitioner

Versus

State of Punjab

...Respondent

**CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN**

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

Mr. Mehardeep Singh, Addl. A.G., Punjab.

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**Jitendra Chauhan, J. (Oral)**

By filing the present petition under Section 439 of the Code of Criminal Procedure, the petitioner has sought regular bail in FIR No.54, dated 23.06.2016, registered under Section 21 of the Narcotic Drugs and Psychotropic Substances Act, (for short, 'the NDPS Act'), at Police Station City Fazilka, District Fazilka.

The learned counsel for the petitioner contends quantity in question is a non commercial. Allegedly 260 gms of heroin was recovered from the petitioner concealed in a polythene in his pocket. The weighment was done including the polythene. The petitioner is in custody since 23.06.2016.

On the other hand, the learned State counsel opposes the

bail application and states that the contraband was recovered from the conscious possession of the petitioner, which is a commercial quantity. The petitioner is a habitual offender and he is involved in another FIR under NDPS Act, however, he is stated to be on bail. The challan has not been presented for want of FSL report.

Heard.

It is debatable whether the quantity is commercial or otherwise. The challan has not been presented; therefore, the conclusion of trial will take a long time, without adverting to the merits of the instant case, this petition is allowed. The petitioner be admitted to bail during the pendency of the trial, subject to his furnishing bail bonds and surety bonds, to the satisfaction of the CJM/Illaqa Magistrate, concerned.

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

25.10.2016  
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(JITENDRA CHAUHAN)  
JUDGE

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|-----------------------------|-----|----|
| Whether speaking/reasoned : | Yes | No |
| Whether Reportable :        | Yes | No |