

CRM-M-39381-2016

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

CRM-M-39381-2016

Date of Decision: 10.11.2016

Rajesh Kumar

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr. Dilpreet Singh Gandhi, Advocate,
for the petitioner.

INDERJIT SINGH, J.

Petitioner, Rajesh Kumar has filed this petition under Section 439 Cr.P.C. for grant of regular bail in case FIR No.163 dated 23.05.2014, registered at Police Station Civil Lines, Amritsar City, under Sections 21 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for brevity, 'NDPS Act').

Notice of motion.

On the asking of Court, Ms. Shivali, Assistant Advocate General, Punjab has accepted notice on behalf of the respondent-State and contested this petition.

I have heard learned counsel for the petitioner as well as learned State counsel and have gone through the record.

As per the police record, the petitioner was apprehended on

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23.05.2014 and 110 gm. intoxicant powder containing Diphenoxylate Hydrochloride Salt, was recovered. The aforesaid recovery falls under the commercial quantity. As discussed by learned Sessions vide order dated 20.09.2016, the present petitioner was also arrested in another case bearing FIR No.97 of 2014, under Sections 382/34 IPC, P.S.Civil Lines, Amritsar, but his custody warrant was not sent to the jail due to the fault of the police officials and in that case, he was granted bail by the Court. As there was no custody warrant in jail regarding the present FIR, therefore, the petitioner was released from the jail.

Perusal of the record also shows that the petitioner has never not been granted bail in the present case, rather due to the above stated negligence of the police officials, he has been released from the jail and now he is in judicial custody since 23.05.2016.

As the recovery effected in the present case falls under commercial quantity, therefore, Section 37 of the NDPS Act bars the benefit of bail to the accused in case of commercial quantity. Resultantly, no ground is made out to grant benefit of bail to the petitioner.

Therefore, finding no merit in the present petitioner, the same is dismissed.

10.11.2016
parveen kumar

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned	:	Yes
Whether reportable	:	No