

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

Criminal Misc. No. M-42383 of 2016

Date of Decision:-06.12.2016

Baljinder alias Biru

...Petitioner

Versus

State of Haryana

...Respondent

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

Present:- Mr. Jitender Dhanda, Advocate
for the petitioner.

Mr. Manish Bansal, Deputy A.G., Haryana.

HARI PAL VERMA J.(Oral)

Prayer in this petition filed under Section 439 Cr.P.C. is for grant of interim bail to the petitioner in case FIR No.348 dated 31.8.2016, under Section 21B of the NDPS Act, 1985, registered at Police Station Bhuna, Tehsil and District Fatehabad till filing of FSL report.

The earlier petition i.e. CRM-M-37919 of 2016 titled 'Baljinder alias Biru vs. State of Haryana' filed by the petitioner seeking regular bail was dismissed as withdrawn by this Court vide order dated 07.11.2016.

Learned counsel for the petitioner submits that the petitioner is in custody since 31.8.2016, the date when the FIR was registered and as the chemical examiner's report in the case has not been received so far, it is difficult to say whether the alleged contraband recovered from the petitioner

falls within the ambit of NDPS Act. He further submits that so long as the chemical examiner's report is not received, the petitioner deserves to be admitted on interim bail. The police has filed incomplete challan without the FSL report. The alleged recovery is of 150 grams of Heroine, which otherwise falls in the non-commercial quantity. However, on receipt of the FSL report and if it is found that recovery falls under the NDPS Act, the petitioner will surrender forthwith. In support of his contentions, learned counsel for the petitioner has placed reliance of **Inderjeet Singh @ Laddi and others vs. State of Punjab** 2014(3) RCR (Criminal) 953 CRM-M-40095 of 2014 titled as '**Bachittar Singh vs. State of Punjab**' and CRM-M-10978 of 2015 titled as '**Ranjit singh @ Rana vs. State of Punjab**'.

On the other hand learned State counsel on instructions from ASI Bahadur Singh states that the petitioner is in custody since 31.8.2016 and the FSL report is awaited, though the police has submitted the challan on 26.10.2016 without FSL report. He further argued that there are as many as 9 cases against the petitioner for various offences.

I have heard learned counsel for the parties.

Without commenting on the merits of the case and taking into consideration the judgment i.e. **Inderjeet Singh @ Laadi's** case (supra) and other judgments and noticing the fact that the police has submitted the challan without the FSL report, this Court finds that the petitioner deserves to be admitted on interim bail.

Accordingly, the petitioner is ordered to be released on interim bail subject to his furnishing adequate bail bonds/surety bonds to the

satisfaction of the learned trial Court.

It is made clear that if on receipt of chemical examiner's report, it is found that the alleged recovery made from the petitioner establishes an offence under the NDPS Act, the petitionere shall surrender before the trial Court forthwith and in case he does not surrender, the police shall be at liberty to take him in custody and produce him in the trial Court in accordance with law.

Disposed of.

December 06, 2016
Vijay Asija

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned

Yes / No

Whether Reportable

Yes / No