

Sr. No. 214

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

**CRM No. M-43644 of 2015 (O&M)
Date of Decision: 10.02.2016**

Harjog Singh @ Joga

...Petitioner

Versus

State of Punjab

... Respondent

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA

Present:- Mr. Ashish Aggarwal, Advocate,
for the petitioner.

Mr. D.S.Virk, AAG, Punjab.

TEJINDER SINGH DHINDSA. J (ORAL)

The present petition has been filed under Section 439 Cr.P.C. seeking the concession of regular bail to the petitioner in case FIR No.154 dated 06.09.2012, under Section 22 of the NDPS Act, registered at Police Station Bhikhiwind, District Tarn Taran.

Learned counsel appearing for the petitioner would submit that even as per case of the prosecution, the petitioner on being confronted by a policy party had thrown a polythene bag on the ground and which upon being checked contained 74.1 grams intoxicating powder.

Since report of the Chemical Examiner was not forthcoming, the petitioner had been granted interim bail on 17.10.2012. Subsequently since report of the Chemical Examiner revealed that the contents of the sample contained Diphenoxylate

Hydrochloride, the concession of interim bail was cancelled and the petitioner was taken back in custody on 04.05.2015.

It is the submission made by counsel that recovery has not been effected from the petitioner or his custody but in fact from a polythene bag lying on the road and as such, it would not amount to recovery from the possession of the accused.

It has also gone uncontroverted that the petitioner did not misuse the concession of interim bail which he had enjoyed from 17.10.2012 till 04.05.2015.

The petitioner is also stated to be not involved in any other case under the NDPS Act.

Learned State counsel upon instructions from ASI Baldev Singh would apprise the Court that investigation in the case having been completed, challan was presented and even charges have been framed. Out of 7 prosecution witnesses only 1 has been examined till date. The trial, as such, is at the initial stage and would take time to conclude.

Without making any observations on merit, prayer is allowed. Petitioner be enlarged on bail subject to the satisfaction of CJM/Duty Magistrate, Tarn Taran.

Disposed of.

10.02.2016

vandana

**(TEJINDER SINGH DHINDSA)
JUDGE**