

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

**CRM-M No. 6142 of 2016 (O&M)
Date of Decision: 03.05.2016**

Rakesh Kumar alias S.P. Kalia

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Mr. F.S. Virk, Advocate for the petitioner.

Mz. Rimplejeet Kaur, Assistant Advocate General, Punjab
for the respondent/State assisted by ASI Sadhu Khan.

JASWANT SINGH, J. (ORAL)

Prayer in this petition under Section 439 of Cr.P.C., is for grant of regular bail on behalf of the petitioner/accused-Rakesh Kumar alias S.P. Kalia in case FIR No. 99, dated 25.05.2015, for the offences punishable under Sections 22/61/85, NDPS, Act, registered at Police Station Gobindgarh Mandi, District Fatehgarh Sahib.

There is a recovery of 10 injections of 'N-Gesic' of 2 ml. each from the possession of the petitioner/accused.

It is contended that the petitioner is in custody since 25.05.2015 and the alleged recovery is non-commercial in nature, as the seized amount comes to 20 grams, whereas more than 20 grams would constitute commercial quantity. It is further contended that only one witness out of nine prosecution witnesses have since been examined.

Learned State Counsel, assisted by ASI Sadhu Khan, and in view of the reply, concedes that the seized quantity is non-commercial in nature, however, the petitioner is involved in four other cases wherein concededly he is on regular bail.

Without commenting on the merits of the case, keeping in view the facts noticed above; custody period of the petitioner; the seized quantity being non-commercial in nature, thus, the bar under Section 37, NDPS Act is not applicable, no useful purpose would be served by keeping the petitioner/accused in custody since the trial is not likely to be concluded in near future, the present petition is allowed and the petitioner is ordered to be released on bail subject to satisfaction of Chief Judicial Magistrate/Duty Magistrate concerned.

May 03, 2016

'dk kamra'

(JASWANT SINGH)
JUDGE