

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

CRM-M-10077 of 2017 (O&M)

Date of decision: 29.03.2017

Rajiv Kumar

...Petitioner

Versus

State of Punjab

...Respondent

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

Present: Mr. Vivek K. Thakur, Advocate for the petitioner.

Ms. Harsimrat Rai, DAG, 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. 78 dated 10.07.2015, registered under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act'), at Police Station Satnampura Phagwara, District Kapurthala.

It is contended that the present FIR has been lodged at the instance of employer of the petitioner as the petitioner had raised a grouse regarding non payment of wages. Otherwise also, the recovery effected from the petitioner is non-commercial in nature as the weight of the polythene bag has also been added towards the weight of contraband. He further states that as per report of chemical examiner, only 0.17% has been found to be alprazolam. The petitioner was taken into custody on 10.07.2015 and thereafter, he was admitted to interim bail for non receipt

of FSL report and he has not misused the concession of interim bail. In support of his contentions, the learned counsel cites Gurpreet Singh @ Gopi Vs. State of Punjab, 2014(14) RCR (Criminal) 327, Manpreet Singh Vs. State of Punjab, 2015(1) RCR (Criminal) 102 and Darbara Singh @ Billa Vs. State of Punjab, rendered in CRM-M-2426-2017 (Annexure P-4).

On the other hand, the learned State counsel opposes the prayer of bail and states that recovery in the instant case is a commercial quantity as the entire substance is to be considered.

I have heard learned counsel for the parties and perused the record.

It is debatable whether the quantity is commercial or otherwise. Considering the fact that the petitioner was taken into custody on 10.07.2015 and he has not misused the concession of interim bail, without advertng to the merits of the instant case, this petition is allowed. The petitioner be admitted to bail during the pendency of trial, on his furnishing bail bonds and surety bonds, to the satisfaction of the trial Court.

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

29.03.2017

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(JITENDRA CHAUHAN)  
JUDGE

Whether speaking/reasoned :

Yes

No

Whether Reportable :

Yes

No