

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

CRM-M-11170 of 2017 (O&M)

Date of decision: 27.04.2017

Mukesh Kumar

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. Salil Bali, Advocate for the petitioner.

Ms. Harsimrat Rai, DAG, Punjab.

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. 192 dated 01.11.2015, registered under Section 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act'), at Police Station Ghall Khurd, District Ferozepur.

It is contended that the recovery in question is non commercial. To make it commercial, the weighment was done along with polythene bag which is made out from the FIR as well as order impugned dated 08.03.2017. The petitioner is a young man of 22 year and is not involved in any other FIR. The petitioner is in custody since 15.12.2016.

On the other hand, the learned State counsel opposes the prayer of bail and states that recovery was effected from the conscious possession of the petitioner.

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

Considering the fact that weighment was done along with polythene bag, the assertion raised by learned counsel for the petitioner deserves acceptance as the weight of the polythene bag has not been separately indicated and it is debatable whether the quantity is commercial or otherwise. The challan stands presented; charges have been framed; the conclusion of trial will take a long time, 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.

27.04.2017

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(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No