

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

**Crl. Misc. No.M-13714 of 2017 (O&M)
Date of Decision: September 18, 2017.**

Rajan Jindal

.....PETITIONER(s).

VERSUS

State of Punjab

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. P.S. Sekhon, Advocate
for the petitioner (s).

Mr. Luvinder Sofat, A.A.G. Punjab.

SURINDER GUPTA, J.(Oral)

The present petition has been filed under Section 439 Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No.314 dated 04.09.2016 registered for the offence punishable under Section 22 of Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station City Sangrur.

Heard.

Learned counsel for the petitioner submits that 14 bottles of 'Rescof' were recovered from the petitioner, out of which two were not having batch numbers as the label on the same were in torn condition. The case property when produced before the Magistrate, samples from two bottles were taken as representative sample without mentioning batch number etc. Even in the report of Forensic Science Laboratory, the batch

number of the bottle, which was analyzed, is not mentioned.

Learned State counsel on instructions of ASI Surinder Pal, who is present in the Court, submits that 10 out of 12 witnesses have been examined in this case, as such, the trial has reached final stage and there is no reason to allow bail to petitioner at this juncture.

The vital question which call for consideration is as to whether the recovery effected from the petitioner was of commercial quantity of the contraband or non-commercial quantity. As per the facts as stated above by learned counsel for the petitioner and on perusal of the report of Forensic Science Laboratory and order of learned Chief Judicial Magistrate, Sangrur dated 05.09.2016, I find that there is no reference of any batch number of the bottles from which sample was taken and sent to the FSL. In view these facts, it will be for the trial Court to decide as to whether the quantity of contraband recovered from the petitioner was commercial or non-commercial in nature and provisions of Section 37 NDPS Act are applicable or not.

Keeping in view the above facts but without expressing any opinion on merits of the case, the present petition is allowed. Petitioner Rajan Jindal is ordered to be released on regular bail on furnishing bail bond and surety bond to the satisfaction of concerned Chief Judicial Magistrate/Duty Magistrate, subject to following terms:-

- a. The petitioner shall comply with the conditions mentioned in Section 437(3) Cr.P.C.
- b. In the event of his absence on any date of hearing, the benefit of bail allowed to the petitioner shall stand withdrawn. The trial Court shall be competent to cancel his bail bond and surety bond and proceed to procure his presence in accordance with

law. In that eventuality the petitioner shall have to apply for bail afresh.

- c. He shall not leave the country without the prior permission of the Court.

September 18, 2017
Sachin M.

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*