

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-M-17013 of 2017

Date of Decision: 18.05.2017

Harsimranjit Singh @ Captain

....Petitioner

VERSUS

State of Punjab

....Respondent

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Raj Kumar Gupta, Advocate
for the petitioner.

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.195 dated 29.09.2016 registered for the offence punishable under Section 22 of Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station Samrala, District Ludhiana.

Heard.

Notice of motion.

On asking of the court, Ms. Bhavna Gupta, DAG, Punjab, who is present in the Court accepts notice and submits that intimation by Registry informing of fixation of the petition has already been received and record of the case is available with her.

Learned counsel for the petitioner submits that as per case of prosecution recovery of intoxicating powder was effected from pocket of trouser of the petitioner, which was wrapped in a glazed paper and on weighment it was found to be 60 gms. He further submits that there is nothing in FIR to show that weight of intoxicating powder was separately

taken or it was taken alongwith glazed paper in which it was wrapped. Now it is a matter of evidence as to whether recovery effected from the petitioner is of commercial quantity or less than the commercial quantity.

On perusal of FIR, I find that there is nothing in FIR to show that intoxicating powder was weighed without glazed paper in which was wrapped. Weighing the intoxicating powder alongwith glazed paper may have resulted in increase in its weight and to what extent it was increased, is a matter to be seen and determined by the trial Court during trial.

In view of above but without expressing any opinion on merits of the case and keeping in view the fact that conclusion of trial will take considerably long time, the present petition is allowed. Petitioner-Harsimranjit Singh @ Captain is ordered to be released on regular bail on furnishing bail bond and surety bond to the satisfaction of concerned trial Court/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- (b) In the event of his absence on any date of hearing, the benefit of bail allowed to the petitioner shall stand withdrawn.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 previous permission of the Court.

May 18, 2017
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No