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

CRM-M No.1738 of 2017

Date of Decision: 16.02.2017

DEVI LAL

.....Petitioner

Vs

STATE OF HARYANA

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. D.N. Ganeriwala, Advocate
for the petitioner.

Mr. Pradeep Prakash Chahar, D.A.G., Haryana.

RAJ MOHAN SINGH, J.(Oral)

Petitioner seeks grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.26 dated 10.03.2016, registered under Sections 21/22/61/85 of the NDPS Act at Police Station Baragudha, District Sirsa.

FIR was registered with the allegations that the petitioner was found in possession of 14 vials of Rexcof Cough Syrup each containing 100 ml. Two vials of Rexcof Cough Syrup were separated as samples and residual 12 vials were sealed in the separate parcel.

Learned counsel for the petitioner by referring to CRM-M No.40243 of 2016 titled "*Gagandeep Vs. State of Punjab*" submitted that there was no representative sample of the total case property. Separation of only two vials of the alleged contraband would not be sufficient to presume presence of alleged narcotic and psychotropic substance in the case property. The chemical examination of two of the vials, out of

the total bulk would be a debatable issue.

In CRM-M No.33434 of 2016 titled "*Amarpal Singh @ Pal vs. State of Punjab*", this Court was pleased to grant regular bail in a case of 55 vials of Rexcof each containing 100 ml after relying upon the earlier decision passed in CRM-M No.42099 of 2013.

Learned State counsel on instructions from HC Radhey Shyam submitted that the case is fixed for prosecution evidence on 17.02.2017. Out of total 15 prosecution witnesses, none has been examined so far.

At this stage, without adverting to the merits of the case, I am of the view that petitioner, who is in custody since 10.03.2016 can be enlarged on bail.

In view of above, petition is allowed. Petitioner is ordered to be enlarged on bail, subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of the trial Court.

Nothing expressed hereinabove would be construed to be an expression of any opinion on merits of the case.

February 16, 2017.

Atik

Whether speaking/reasoned

Whether reportable

**(RAJ MOHAN SINGH)
JUDGE**

Yes/No

Yes/No