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

**CRM-M No.1752 of 2017 (O&M)
Date of Decision: 14.02.2017**

DEEPAK KUMAR

.....Petitioner

Vs

UT OF CHANDIGARH

.....Respondent

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Kirpal Singh Thakur, Advocate
for the petitioner.

Mr. G.S. Chahal, APP UT, Chandigarh.

RAJ MOHAN SINGH, J.(Oral)

CRM No.4558 of 2017

Prayer made in the application is for placing on record
the photocopy of CFSL examination report dated 08.09.2016.

Learned State counsel has no obvious objection to the
aforesaid report to be placed on record at this juncture.

In view of above, application is allowed and photocopy
of the CFSL examination report dated 08.09.2016 is taken on
record.

CRM-M No.1752 of 2017

Petitioner seeks grant of regular bail under Section 439

Cr.P.C in case bearing FIR No.147 dated 29.07.2016, registered under Sections 21, 22 of the NDPS Act at Police Station Sector 36, Chandigarh.

Allegations against the petitioner are that 12 injections and a polythene bag containing cream colour powder were recovered from the petitioner. The weight of the power was found to be 5.5 grams, whereas as per FSL report 2 ml. glass injection having label of Buprenorphine injection was containing 300 mg of Buprenorphine Hydrochloride I.P. per ml.

The FSL report would be on arguable note inasmuch as that total weight of 1 injection as per in ml. has not been shown. If each ml. is taken to be containing Buprenorphine Hydrochloride to the tune of 300 mg then, the total weight of the contraband would come out to be 7.2 grams, which would be less than the outer limit of 20 grams fixed for commercial quantity. If density of liquid containing in each injection is taken to be 2 ml. equivalent to 2 grams, then the weight of total contraband would come out to be 24 grams.

Learned counsel for the petitioner at this stage argued both the eventualities. If FSL report is taken to be on its face value, then the alleged recovery can be termed as less than commercial quantity. If the weight of per ml. is taken to be one gram, then also the alleged recovery would marginally exceed

the quantity fixed for commercial category. Recovery of heroin to the extent of 5.5 grams is found to be non-commercial in any case.

Learned counsel relied upon **Kulwant Singh @ Happy vs. State of Punjab, 2016(1) Law Herald (P&H) 52** and contended that the alleged recovery even if, presumed to be 24 grams would be slightly higher than the commercial quantity for which prayer of the petitioner can be considered in view of the fact that petitioner has not been involved in any other case and is in custody since 29.07.2016.

At this stage, without adverting to the merits of the case, I am of the view that petitioner, who is in custody since 29.07.2016 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 14, 2017.

(RAJ MOHAN SINGH)
JUDGE

Atik

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No