

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

**Criminal Misc. No.M-21151 of 2017
Date of Decision: 17.07.2017**

Ajay Kumar alias Happy

...Petitioner(s)

Versus

State of Punjab

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

Present:- Mr. Shaurya Puri, Advocate
for the petitioner.

Mr. H.S. Grewal, Addl.A.G., Punjab with
Mr. Bhupender Beniwal, AAG, Punjab.

HARI PAL VERMA, J. (Oral)

Prayer in the present petition filed under Section 439 of the Code of Criminal Procedure, 1973 is for grant of regular bail to the petitioner in case FIR No.50 dated 24.5.2015 under Section 21 NDPS Act registered at Police Station Satnampura, District Kapurthala.

Learned counsel for the petitioner has argued that the alleged recovery made from the petitioner is 105 grams of intoxicant powder and on chemical analysis thereof, the same was found to be Diphenoxylate Hydrochloride which is a manufacturing drug, as per the Government of India Notification No.S.O.826(E) dated 14.11.1985 and S.O..40(E) dated 29.01.1993. He further submits that the petitioner is in custody since 27.4.2017. He relies upon order of this Court dated 1.5.2017 passed in

CRM-M-14153-2017 *Harpal Singh v. State of Punjab* in FIR No.57

dated 29.5.2015 under Section 22 of the NDPS Act registered at Police Station Satnampura, District Kapurthala, wherein similarly situated accused-petitioner therein, from whose possession 110 grams of intoxicant powder was allegedly recovered, was ordered to be released on regular bail.

Learned State counsel does not dispute the submissions made on behalf of the petitioner, however, he submits that taking into consideration the fact that the alleged recovery made from the petitioner falls in commercial quantity, he is not entitled for bail.

I have heard learned counsel for the parties.

The issue as to whether the alleged recovery effected from the petitioner is a manufactured drug under Section 22 of the NDPS Act or otherwise is debatable. Considering the fact that similarly situated accused in **CRM-M-14153-2017 *Harpal Singh v. State of Punjab*** has already been granted bail by this Court and the petitioner is in custody since 27.4.2017 and the trial in the case may take long time, I deem it appropriate to release him on regular bail.

Accordingly, the present petition is allowed and the petitioner is admitted on regular bail, subject to furnishing of his bail bonds/surety bonds to the satisfaction of trial Court.

It is made clear that observations made hereinabove shall not be construed as any expression on the merits of the case.

July 17, 2017
AK

(HARI PAL VERMA)
JUDGE

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No