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

CRM-M-23869 of 2016

Date of decision: February 28, 2017

Rajinder Kumar @ Kaka

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE A.B. CHAUDHARI

Present: Mr. D.S. Gandhi, Advocate for the petitioner.

Ms. Rajni Gupta, Addl. AG Punjab.

A.B. CHAUDHARI, J (Oral)

Heard learned counsel for the rival parties.

In FIR No.05 dated 05.01.2014, under Section 22 of the Narcotic Drugs and Psychotropic Substance Act, 1985 (for short 'NDPC Act'), registered at Police Station Jhabal, District Tarn Taran, the petitioner seeks regular bail. The petitioner was arrested and is in jail.

Learned State counsel submits that some witnesses have been examined and therefore, there is no need to make any order regarding grant of bail. She submits that at any rate, an application for correction of the deposition in cross-examination is pending with the trial Court.

Learned counsel for the petitioner prayed for grant of bail on the ground that Assistant Sub Inspector Sarabjit Singh-PW1 himself has given damning admission against the prosecution in the

cross-examination for which there is no application for correction.

Learned State counsel submits that the application for correction should be allowed to be considered.

I have perused the entire evidence of PW1 Assistant Sub Inspector Sarabjit Singh. I quote the following paragraphs from his cross-examination:-

“xxx. One sample of 10 gms was made but no documentation was done. The other parcel was of 200 gms. The weighing scale was brought from nearby. It is correct that we did not tell him his rights and he was not told that his checking could be done from the gazetted officer or Judicial Magistrate. No public witness was attempted to join. We did not bother to call any Sarpanch, Nambardar or member panchayat of village Manan as independent witness to join. The color of the powder is dark brown/white. We took his thumb impression on 2 blank papers. In the PS total of 3 Memos were prepared and I signed on all 3. They were not made at the place of occurrence. In the PS after sealing the seal was handed over to me and has been in my safe custody. We reached PS near 11:30/12:00 of night. It is incorrect to suggest that it is all a political vandata. It is correct to suggest that it is planted recovery. xxx.”

It is clear from the aforesaid deposition that Assistant Sub Inspector Sarabjit Singh, in the cross-examination, is clearly supporting the defence. He has destroyed the prosecution case in his cross-examination regarding mandatory provisions of the NDPS Act.

In that view of the matter, petitioner would be entitled to grant benefit of bail.

In that view of the matter, this petition is allowed. Petitioner is ordered to be released on bail, subject to the satisfaction of the Chief Judicial Magistrate/Duty Magistrate concerned. Petitioner shall not tamper with the prosecution evidence, threaten or exercise any influence on the prosecution witnesses.

(A.B. CHAUDHARI)
JUDGE

February 28, 2017

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Whether speaking/ reasoned: Yes/No

Whether Reportable: Yes/No