

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-M-24223 of 2017
Date of Decision: 26.09.2017

Nirmal Singh

....Petitioner

VERSUS

State of Punjab

....Respondent

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Vivek Goel, Advocate
for the petitioner.

Mr. Luvinder Sofat, A.A.G. Punjab

SURINDER GUPTA, J.

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.83 dated 27.10.2016 registered for the offence punishable under Section 22 of Narcotics Drugs and Psychotropic Substances Act, 1985 at Police Station Sadar Faridkot, District Faridkot.

Heard.

Learned State counsel submits that 685 tablets, which were later on found to be of Alprazolam, were recovered from the petitioner. The weight of these tablets was calculated on the basis of average weight of the tablet, which was mentioned in FSL report as 152.35 mgs. per tablet and it came out to be 104.35975 gms. Recovery of more than 100 gms. of Alprazolam falls in commercial quantity.

Learned counsel for the petitioner has argued that tablets were not weighed at the time of recovery or at any other point of time. The tablets, which were sent to FSL, were weighed there and on the basis of

same, average weight of the tablet was taken as 152.5 mgs. Tablets recovered from the petitioner were loose tablets and there may be variation in the weight of each tablet, as such, it will be for the trial Court, on the basis of evidence produced before it by the prosecution, to see as to whether the weight of tablet is proved to be more than 100 gms. as there are every chance that weight of other tablets may not be same as mentioned in the report of FSL and a variation of 5 gms. will make all the difference.

Tablets recovered from the petitioner were loose tablets. These were not weighed at the spot or at any other point of time. Samples of tablets taken in this case were sent to FSL, where average weight of the tablet was mentioned as 152.35 mgs. At this stage, I find merit in submissions of learned counsel for the petitioner that weight of all the loose tablets may not be equal to the average weight of tablets mentioned in the report of FSL. However, this point is to be looked into by the trial Court on the basis of evidence without being influenced by any observation made in this order.

Keeping in view above facts and that conclusion of trial will take considerably long time, the present petition is allowed. Petitioner-Nirmal Singh 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.

September 26, 2017
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(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No