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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M No. 25127 of 2017 (O&M)
Date of Decision: 04.09.2017

Davinder Kumar

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present: Mr. Preetinder S.Ahluwalia, Advocate,
for the petitioner.

Mr. V.G. Jauhar, Senior D.A.G., Punjab.

SUDIP AHLUWALIA, J. (ORAL)

The instant petition has been filed by the petitioner under Section 439 of the Code of Criminal Procedure seeking regular bail in case F.I.R. No. 057, dated 10.04.2017, registered under Sections 21/61/85 of the Narcotic Drugs and Psychotropic Substances Act, 1985, at Police Station Canal Colony, District Bathinda.

2. Custody certificate of the petitioner is filed; Be taken on record.

3. Contraband in the form of 29050 tablets was allegedly recovered from the petitioner. In his bail application, he has specifically denied any such recovery and has on the other hand contended that

recovery of “Phenotil” has been planted upon him.

4. The Chemical Analysis Report has since become available. It transpires that out of four types of tablets recovered from the petitioner, 27500 tablets were found to be containing “Tramadol Hydrochloride” salt, which is not covered by the Narcotic Drugs and Psychotropic Substances Act, 1985. 450 other tablets were found to contain “Alprazolam”, the total weight of which is just above 75 grams, which is less than the commercial quantity. In respect of the 1100 “Phenotil” tablets allegedly recovered from the petitioner containing “Diphenoxylate Hydrochloride”, the total weight comes to a little above 71 grams.

5. It has been highlighted on behalf of the petitioner that “Phenotil” tablets are extremely inexpensive and so the possibility of their being procured easily or being planted upon a person motivatedly cannot be altogether ruled out. A number of judgments passed by several Co-ordinate Benches of this Court have also been placed on behalf of the petitioner, in which the bail was granted to the accused persons, when recovery of contraband, marginally in excess of the commercial quantity, was made from them.

6. It is seen from the order of a Co-ordinate Bench of this Court passed in CRM-M No. 39534 of 2015 on 17.12.2015 that such bail was granted in a case of recovery of 1100 tablets of “Diphenoxylate Hydrochloride”, the total weight of which was nearly 85 grams. The alleged recovery from the petitioner is substantially less in the present case.

7. As such, considering the detention undergone by the petitioner, this Court is inclined to go with the decisions of the two Co-ordinate

Benches of this Court in CRM-M No. 41266 of 2016 and CRM-M No. 27365 of 2016 on 23.11.2016 and 14.03.2017, respectively, in which similar quantities of contraband were allegedly seized from the concerned petitioners.

8. For the aforesaid reasons, the petitioner, namely Davinder Kumar son of Ram Chand, is directed to be released on regular bail subject to appropriate terms and conditions to the satisfaction of the Ld. Trial Court.

04.09.2017

Apurva

**(SUDIP AHLUWALIA)
JUDGE**

1. Whether speaking/ reasoned : Yes/ No
2. Whether reportable : Yes/ No