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

**CRM-29219-2017 IN/AND
CRM-M-25571-2017**

Date of decision:14.09.2017.

KALA

... Petitioner

Versus

STATE OF U. T. CHANDIGARH

.... Respondent

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Karan Vir Nanda, Advocate,
for the petitioner.

Mr. A.S. Virk, APP, U.T., Chandigarh.

HARI PAL VERMA, J.

CRM-29219-2017

Prayer in this application filed under Section 482 Cr.P.C. is
for placing on record Annexure P-2 i.e. statement of Constable Parveen
Kumar.

For the reasons stated in the application, same is allowed
and the document-Annexure P-2 is taken on record, subject to all just
exceptions.

CRM-M-25571-2017

Prayer in this petition filed under Section 439 Cr.P.C. is for
grant of regular bail to the petitioner in case FIR No.20 dated
23.01.2017 under Section 22 of NDPS Act, registered at Police Station

The aforesaid FIR was registered against the petitioner that on 23.01.2017 when the police party owing to the rising cases of theft and snatching, deployed a naka at the back side of Government Model Senior Secondary School, Sector 56, Chandigarh and were checking every suspicious person and vehicle, a person (petitioner herein) carrying a red bag was seen coming to Sector 55/56 dividing road. On seeing the police personnel, he changed his route and started walking in a dubious manner. On the basis of this suspicion, two ASIs rounded him up and he disclosed his name and address as Kala son of Ram Kumar resident of 6636/B, Sector 56, Chandigarh. On checking of his carry bag, it was found that the petitioner was carrying 22 injections of Buprenorphine 2 ml each liquid and 22 injections of Pheniramine Maleate 10 ml each liquid. The petitioner failed to produce any licence or permit so as to keep possession of these injections. The injections and the carry bag were bundled in a white coloured bag and it was sealed with "J.S." stamped on it and a similar stamp was also prepared.

Learned counsel for the petitioner has argued that the contraband has been planted upon the petitioner. There was no police party under the name and style of "J.S.". The petitioner was never offered to be searched by a gazetted officer, as provided under Section 50 of NDPS Act (for short, 'the Act').

On the other hand, learned States counsel has argued that as the recovered quantity is commercial, the bail is barred under Section

I have heard learned counsel for the parties.

The recovery of contraband effected from the possession of the petitioner i.e. 22 injections of Buprenorphine 2 ml each liquid and 22 injections of Pheniramine Maleate 10 ml each liquid, is commercial quantity. So far as the plea of the petitioner that the search was never conducted by a gazetted officer or any independent witness, the same cannot be accepted. It was a chance recovery and no independent witness has come forward to depose in the case. Therefore, the plea of the petitioner that the provision of NDPS Act i.e. search by Gazetted Officer, cannot be accepted as it was a chance recovery.

In view of above, no case for grant of regular bail to the petitioner is made out. Accordingly, present petition is dismissed.

It is made clear that the observations made hereinabove shall not be construed as an expression on the merits of the case and the trial court shall decide the case on the basis of available material.

(HARI PAL VERMA)
JUDGE

14.09.2017
sanjeev

Whether speaking/reasoned? Yes/No
Whether reportable? Yes/No