

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

CRM-M-31795 of 2016 (O&M)

Date of decision: 20.01.2017

Sehbaz

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. S.S. Gill, Advocate for the petitioner.

Ms. Harsimrat Rai, DAG, Punjab.

Jitendra Chauhan, J. (Oral)

By filing the present petition, under Section 439 of the Code of Criminal Procedure, the petitioner has sought regular bail in FIR No.34 dated 17.06.2015, registered under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act'), at Police Station Sandaur, District Sangrur.

It is contended that allegedly 2940 loose tablets were recovered. As per the FSL report, the salt found in the tablets was alprazolam. He states that the representative sample sent to FSL is defective, as in case of recovery of loose tablets, the entire commodity i.e. each tablet is to be separately sent for FSL examination. In support of his contentions, the learned counsel cites

Gurpreet Singh Vs. State of Punjab in CRM-8100-2015 in CRA-

S-1074-SB-2013, Gaunter Edwin Kircher Vs. State of Goa, Secretariat Panaji, (1993) 3 SCC 145.

On the other hand, the learned State counsel opposes the bail application.

Heard.

As per Chapter 3 of Guidelines on Representative Drug Sampling published by the Laboratory and Scientific Section, United Nations Office on Drugs and Crime, Vienna (2009), a uniform representative technique has been suggested. The same is being reproduced as under:-

A representative sampling procedure can be performed on a population of units with sufficient similar external characteristics (e.g. size, colour).

The theoretical way to select a truly random, unbiased representative sample from a population is to individually number each item in the population and then use a random number generator to choose which item to select. This is not possible in practice, especially for large populations containing many thousands of units.

When preparing samples, it is essential that two principles are maintained:

- i. The properties of the sample are a true reflection of the properties of the population from which the samples were taken.*
- ii. Each unit in the population has an equal chance of being selected.*

As per the Fields Officer's Handbook, published by

Narcotics Control Bureau, the Ministry of Home Affairs, Govt. of India, in Chapter 8, it has been prescribed as under:-

- *In case the drugs/controlled substances are found in loose form, the same should be packed in unit containers of uniform size and serial numbers should be assigned to each package/container. The gross and net weight, particular of the drug and the date of seizure should invariably be indicated on each package.*
- *Quantity of each representative sample drawn is to be 5 gms. in case of all ND and PS, except ganja and charas where the quantity to be drawn is 24 gms. In case of CS, if the same are in the state of powder or liquid, each sample size should be 5 gm/5 ml (liquid). If it is in a tablet/capsule form, each sample size should contain at least a strip of 10 tablets/capsules.*
- *The seized drug in the packages/containers should be well mixed to make it homogenous so that the sample drawn is representative of the seized substance.*

The Court feels that the suggestions put forth by learned counsel for the petitioner warrant rejection as the purpose of sampling is to send in a representative quantity and not the whole quantity. It is not the case of the petitioner that the tablets are of different colour, size or weight. The entire contraband was carried by the petitioner in a single package (polythene bag) and out of recovery, 40 tablets were drawn for sampling. Considering the uniformity of the tablets/contraband recovered, the Court feels that a

homogeneous sample of 40 tablets was rightly sent by the State for analysis. Keeping in view the above, no case for grant of regular bail, is made out.

Dismissed.

Anything said herein above shall not be construed as an expression of opinion on the merits of the case.

20.01.2017
sumit.k

(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No