

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-M-31392 of 2017

Date of Decision: 09.10.2017

Jagtar Singh

....Petitioner

VERSUS

State of Punjab

....Respondent

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Sandeep Arora, Advocate
for the petitioner.

Mr. C.L. Pawar, Sr. D.A.G., Punjab

SURINDER GUPTA, J.(Oral)

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. 67 dated 31.03.2017 registered for the offence punishable under Section 22 of Narcotics Drugs and Psychotropic Substances Act, 1985 at Police Station Phillaur, District Jalandhar.

Heard.

Recovery from the petitioner is of 118 gms. of intoxicating powder (Alprazolam), which is commercial quantity.

Learned counsel for the petitioner has argued that the contraband i.e. intoxicating powder was weighed alongwith the envelope and there is every possibility that envelope was weighing more than 18 gms., as such, recovered quantity can be taken as less than 100 gms., which falls in non-commercial quantity.

A plastic envelope may weigh 3 to 5 gms. but not of 18 or 20 gms., as such, inference can not be drawn at this stage that the recovery

effected from the petitioner is of non-commercial quantity.

Learned counsel for the petitioner has further argued that no independent witness was joined at the time of recovery from the petitioner and provisions of Section 50 of NDPS Act were not complied with.

Both the above submissions of learned counsel for the petitioner are also without merits. The offer was given to the petitioner to get his search conducted before a gazetted officer or a Magistrate but he reposed confidence in ASI Raj Kumar, who was heading the policy party at the time of his apprehension. This fact has been mentioned in the FIR that before conducting the search of petitioner attempt was made to join witness from the public but every person, who was contacted, expressed his helplessness in becoming a State witness. In this manner non-joining of independent witness has also been explained.

Keeping in view above facts, I find no merit in the instant petition and the same is dismissed. It is, however, made clear that nothing observed in this order shall be taken as expression of opinion on merits of the case and the trial Court while deciding the case on merit shall not be influenced by any observation made herein.

October 09, 2017
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(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No