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

**CRM-M No.361 of 2017
Date of Decision: 03.04.2017**

RAJU

.....Petitioner

Vs

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. L.S. Lakhanpal, Advocate
for the petitioner.

Mr. Shilesh Gupta, Addl. A.G., Punjab.

RAJ MOHAN SINGH, J.(Oral)

Petitioner seeks grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.187 dated 02.11.2015 registered under Section 22/61/85 of the NDPS Act at Police Station Goraya, District Jalandhar.

Learned counsel for the petitioner submitted that when the FIR was registered on the basis of secret information, the Investigating Officer was under legal obligation to comply with the mandatory provisions in terms of Section 42 of the NDPS Act. No reasons have been recorded in writing by the Investigating Officer for arriving at the *prima facie* conclusion

that the petitioner was carrying some contraband.

The alleged contraband recovered from the petitioner was 150 grams of intoxicating power. On chemical analysis, the alleged contraband was found to be Alprazolam which is covered under column No.30 of the Schedule appended to NDPS Act 1985, but in view of recommendations of Review Committee Alprazolam is also covered under Schedule (H) of Drug and Cosmetics Act, 1940.

It would be debatable as to the applicability of both the Acts at the time of trial in view of order passed by this Court in **Parveen @ Dunga vs. State of Punjab, 2014(33) RCR (Criminal) 46** and **CRM-M No.34998 of 2016** titled “**Rachhpal Singh @ Goldi vs. State of Punjab**”.

Learned State counsel on instructions from ASI Jagtar Singh submitted that out of 11 prosecution witnesses, 3 prosecution witnesses have been examined so far.

At this stage, without advertent to the merits of the case and taking into entirety of the facts and circumstances of case, I deem it appropriate that the petitioner can be granted concession of regular bail.

In view of above, petition is allowed. Petitioner is ordered to be enlarged on regular bail, subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of the trial

Court.

Nothing expressed hereinabove would be construed to be an expression of any opinion on merits of the case.

April 03, 2017.

Atik

Whether speaking/reasoned

Whether reportable

**(RAJ MOHAN SINGH)
JUDGE**

Yes/No

Yes/No