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

**CRM-M No.37136 of 2016
Date of Decision: 12.01.2017**

VIVEK SINGLA

.....Petitioner

Vs

STATE OF PUNJAB

.....Respondent

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. R.S. Rai, Senior Advocate with
Mr. Gursimran Singh, 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.123 dated 29.04.2016, registered under Section 22/62/85 of the NDPS Act at Police Station Zirakpur, District SAS Nagar.

The allegations are that the car of the petitioner was apprehended in which a hand bag containing 600 strips of Aldix-05 tablets was recovered from him. Each strip was containing 10 tablets. Since the petitioner could not produce any licence or permit, therefore, possession of the aforesaid

manufactured drug was treated to be an offence under Section 22 of the NDPS Act. Out of recovered tablets, 2-2 strips were taken as representative samples and the remaining bulk of tablets was sealed. After necessary compliance, subsequent proceedings were initiated.

Learned Senior counsel for the petitioner contended that petitioner is a pharmacist and has been running a chemist shop in the area of Guru Nank Colony, Dhakoli, Zirakpur. Learned Senior counsel further contended that since the recovered drug is a controlled substance, which is a manufactured drug, therefore, provisions of NDPS Act were not attracted.

Learned Senior counsel relied upon **Gaunter Edwin Kircher vs. State of Goa, Secretariat Panji, Goa, 1993 AIR (SC) 1456** and contended that when entire bulk was not subjected to analysis, the same cannot be treated to be a case property for the purposes of treating the same under the commercial quantity. Learned Senior counsel also relied upon decision in CRM-M No.28732 of 2015 and CRM No.23854 of 2016 in CRA-S No.145-SB of 2016.

On the other hand, learned State counsel vehemently opposed the prayer on the ground that the quantity falls under

the commercial quantity and the petitioner could not satisfactorily explain the possession of the contraband with reference to any licence or permit possessed by him.

The case appears to be on arguable note. At this stage, without advertng to the merits of the case, I am of the view that petitioner can be enlarged on bail.

In view of above, petition is allowed. Petitioner is ordered to be enlarged on bail, subject to 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.

January 12, 2017.

Atik

Whether speaking/reasoned

Whether reportable

**(RAJ MOHAN SINGH)
JUDGE**

Yes/No

Yes/No