

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

CRM-M-41391-2017

Date of decision:-6.11.2017

Vijay Mahajan

...Petitioner

Versus

State of Punjab

...Respondent

CORAM : HON'BLE MR. JUSTICE H.S. MADAAN

Present : Mr.D.S. Pheruman, Advocate
for the petitioner.

H.S. MADAAN, J.(ORAL)

Petitioner – Vijay Mahajan, an accused in FIR No.39 dated 1.7.2015, under Sections 21 and 29 of NDPS Act, registered with Police Station Sarai Amanat Khan, District Amritsar was arrested and sent up to face trial by learned Judge, Special Court, Tarn Taran. Since the report from the Forensic Science Laboratory had not been received, petitioner had moved an application before learned Judge, Special Court, Tarn Taran for grant of interim bail. His such request was declined and then the petitioner has approached this Court seeking similar relief. His petition so moved bearing CRM-M-43040-2015 was accepted by a Co-ordinate Bench of this Court vide order dated 19.1.2016 with the observations as under:

Under such circumstances, petitioner is held entitled to the benefit of interim bail. Petitioner be enlarged on interim bail, subject to satisfaction of the Chief Judicial Magistrate/Duty Magistrate, Tarn Taran.

It is, however, clarified that if after receipt of report from Chemical Examiner, an offence under NDPS Act is made out against the petitioner, he would be taken into custody forthwith.

Disposed of.

Admittedly, a report from the FSL has since been received and the Judge, Special Court, Tarn Taran is said to have issued non-bailable warrants of arrest against the present petitioner vide order dated 20.9.2017 for the reason that he was not present in the Court on that date. As the report from FSL has been received, the interim bail granted to the petitioner has come to an end. He is required to surrender in the trial Court.

Learned counsel for the petitioner submits that the recovery involved does not amount to commercial quantity.

Since the trial is going on, it is to be determined by the trial Court and not by this Court under these proceedings. Therefore, the petitioner is directed to surrender in the trial Court immediately and if he moves some application regarding the fact whether the contraband is to be taken as commercial or non-commercial or small quantity, then the application be disposed of by the Judge, Special Court, Tarn Taran at the earliest.

Such such observations, the petition stands dismissed.

(H.S.MADAAN)
JUDGE

6.11.2017

Brij

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No