

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-M-41745 of 2017
Date of Decision: 15.11.2017

Jaswinder Singh and another

....Petitioners

VERSUS

State of Punjab

....Respondent

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Abhishek Mittal, Advocate
for the petitioner.

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.09 dated 11.01.2014 registered for the offence punishable under Section 22 of Narcotics Drugs and Psychotropic Substances Act, 1985 at Police Station Lehra, Sangrur, District Sangrur.

Heard.

Notice of motion.

On asking of the court, Mr. Sandeep Kumar, DAG, Punjab, who is present in the Court accepts notice and submits that intimation by Registry informing of fixation of the petition has already been received and record of the case is available with him.

Learned counsel for the petitioner submits that the petitioner was earlier allowed interim bail, which was cancelled vide order dated 07.08.2017, as contents of 4 liter of liquid recovered from him were found to be that of Codeine Phosphate. While referring to observations of Division Bench of Hon'ble Apex Court in case of **Hira Singh and another vs. Union**

of India and anr., 2017 (3) RCR (Criminal) 633, he argues that the matter has been referred to larger Bench to decide “as to whether mixture of narcotic drug and seized material/substance should be considered as a preparation in totality or on the basis of the actual drug content of the specified narcotic drug?” If the report of FSL is taken into consideration, the quantum of narcotic as recovered falls in non-commercial quantity.

Learned State counsel submits that as per Government notification dated 18.11.2009 and amended notification dated 19.10.2001, the entire quantity of narcotic is to be considered while determining whether quantity falls in commercial or non-commercial quantity. This law has not been changed or modified so far by the Government or in any of the citation by Hon'ble Apex Court. The trial is at fag end and only one formal witness remains to be examined.

Keeping in view above facts but without expressing any opinion on merits of the case, the instant petition is dismissed with direction to trial Court to expedite trial of the case and try to dispose of the same at the earliest, preferably within a period of three months from the date of receipt of copy of this order.

November 15, 2017
jk

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No