

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

**CRM No.M-45323 of 2016 (O&M)
Date of Decision: November 02, 2017**

Balour Singh and another

...Petitioners

VERSUS

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Anmol Rattan Sidhu, Senior Advocate with
Mr.Bhawna Thakur, Advocate
for the petitioners.

Mr.Kuldeep Sharma, Deputy Advocate General, Haryana
for the respondent-State.

INDERJIT SINGH, J.

Petitioners have filed this petition under Section 439 Cr.P.C.
for grant of regular bail in case FIR No.251 dated 07.09.2016 under
Sections 21C and 22 of the NDPS Act, registered at Police Station Dabwali
Sadar, District Sirsa.

Notice of motion was issued. Learned State counsel appeared
and contested the petition.

At the time of arguments, learned counsel for the petitioners
contended that matter has been referred to the larger bench of the Hon'ble
Supreme Court regarding Section 80 of the NDPS Act. Therefore, he
argued that till the matter is decided by the Hon'ble Supreme Court, the bail

should be granted to the petitioner.

I have heard learned counsel for the petitioners as well as learned State counsel and have gone through the record.

The recovery effected from the accused in the present case falls under commercial category. As per Section 37 of the NDPS Act, bail cannot be granted in the case of commercial quantity. The notification of 2009 regarding considering whole quantity for the purpose of determining whether the quantity falls in commercial or non-commercial category, has not been set aside so far. Furthermore, these arguments have not been put forth before Court of Session. The order passed by learned Addl. Sessions Judge, Sirsa, which is placed on record as Annexure P-2, is only order passed on the application under Section 167(2) Cr.P.C. No bail application under Section 439 Cr.P.C. has been filed and at the time of arguments before this Court, nothing has been argued regarding grant of bail under Section 167(2) Cr.P.C.

Keeping in view the provisions of Section 37 of the NDPS Act, as the recovery falls under commercial category, therefore, I do not find it a fit case where petitioner is entitled to benefit of regular bail.

Therefore, finding no merit in the present petition, the same is dismissed.

November 02, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No