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

CRM-M No.45903 of 2016 (O&M)
Date of Decision: 28.04.2017

Amarpal Singh @ Kala

.....Petitioner

Vs

State of Punjab

.....Respondent

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

Present: Mr. Prateek Pandit, Advocate
for the petitioner.

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

RAJ MOHAN SINGH, J.(Oral)

CRM-13868-2017

For the reasons mentioned in the application, the application is allowed and accompanying documents are taken on record subject to just exception.

Main case

Petitioner seeks grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.179 dated 02.10.2014, registered under Sections 22/61/85 of NDPS Act at Police Station Kotwali, District Kapurthala.

250 gms. of intoxicating powder was allegedly

recovered from the petitioner which on chemical analysis was found to be containing salt of Diphenoxylate Hydrochloride.

Petitioner was granted interim bail on 04.12.2014, but on receipt of report of chemical analyst, the same was dismissed on 23.02.2015. Though the petitioner intends to demolish the prosecution case by referring to cross-examination of Investigating Officer-PW4 but I am of the view that the case would remain on arguable note in view of nature of recovery made by the police.

Charge has been framed for the offence under Section 22 of the NDPS Act. Diphenoxylate Hydrochloride is a manufacturing drug as per Government of India Notification No.SO 826 (E) 14.11.1985 and SO 40(E) dated 29.01.1993 and the offence in terms of manufacturing drug is punishable under Section 21 of the NDPS Act.

Learned counsel for the petitioner relies upon **CRM-M No. 33873 of 2016** in **CRA-S No.1614-SB of 2014** titled **Deepak Kumar vs State of Punjab** to contend that the issue is debatable as to the trial of manufacturing drug under Section 22 of the NDPS Act.

Learned counsel further submits that though only one prosecution witness has to be examined i.e. the SHO, but he has already gone to USA on Ex-India Leave for a period of four

months.

Be that as it may, at this stage, without forming any opinion on merits of the case, I deem it appropriate to enlarge the petitioner 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 28, 2017

jyoti Y.

**(RAJ MOHAN SINGH)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No