

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.46640 of 2016

Date of decision : 23.02.2017

Harpreet Singh @ Preet @ Billa

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. AMOL RATTAN SINGH

Present: Mr. Jagjit Singh Saini, Advocate,
for the petitioner.

Mr. Sidakmeet Singh Sandhu, AAG, Punjab
for the respondent-State.

AMOL RATTAN SINGH J. (ORAL)

This petition has been filed under Section 439 Cr.P.C., for grant of regular bail to the petitioner in case FIR No. 167 dated 20.08.2016, registered at Police Station Sahnewal, District Ludhiana, for the alleged commission of offences punishable under Sections 22/61 of the NDPS Act, 1985.

In pursuance to the order dated 13.02.2017, affidavit of the Deputy Commissioner of Police (Investigation), Ludhiana, has been filed today by learned State counsel, giving therein the details of the departure time and return time of the police party as is stated to have apprehended the petitioner with 12 bottles of Corex Cough Syrup.

On query, learned State counsel on instructions from ASI Gurbakshish Singh, admits that the number of the vehicle in which the police party was travelling was not written in the 'Roznamcha'. The reason given is that since it is a private vehicle, there is no need to give its registration number.

In the prima facie opinion of this Court, in the absence of any videographic recording of the arrest of a person made on a raid being conducted, the only methodology to determine the truth of the statement of the police officials is 'Roznamcha' entries giving therein the details of the vehicle in which they are travelling for patrolling and of course, the names of the police officials travelling in it.

That apart, in this case, it is contended that out of 12 bottles of Corex Cough Syrup which are stated to have been recovered from the petitioner, only one was actually sent for sampling to the laboratory.

Consequently, without making any comment on the actual merits of the case, which would be obviously looked at by the trial Court in the trial itself, in view of the above and the fact that the trial is likely to take long as yet, the petition is allowed. The petitioner shall be admitted to bail upon his furnishing adequate bail bonds and surety bonds to the satisfaction of the learned trial Court, further subject to any condition that would be laid down by that Court.

It needs to be reiterated that a 'conjoint' reading of **Union of India Vs. Mohanlal and another**, 2016 (1) RCR (Criminal) 858 and **Gaunter Edwin Kircher Vs. State of Goa** (1993) 3 SCC 145, shows that it has been observed by their lordships that unless the contraband stated to have been recovered is actually subjected to sampling before a Magistrate or a Gazetted Officer and samples are sent for analysis to the chemical examiner from all bottles/strips of the contraband seized/recovered, the actual presence of contraband may become doubtful.

However, as already stated, the aforesaid observations are being made in view of the fact that the petitioner has been in custody for a long

time and obviously, personal liberty of a person cannot be curtailed indefinitely when at least a prima facie doubt has been raised with regard to the apprehension of the contraband.

The petition stands disposed of accordingly.

23.02.2017
adhikari

(AMOL RATTAN SINGH)
JUDGE

<i>Whether speaking/reasoned</i>	:	<i>Yes/No</i>
<i>Whether Reportable</i>	:	<i>Yes/No</i>