

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-47187-2017

Date of decision: 15.12.2017

Satpal

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Vijay Lath, Advocate
for the petitioner.

Mr. A.S. Gill, Sr. DAG, Punjab.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for grant of regular bail in FIR No.101 dated 14.07.2017 under Sections 22/61/85 of NDPS Act, 1985, registered at Police Station Nangal, Tehsil Nangal, District Rupnagar.

Learned counsel for the petitioner submits that as per the allegations levelled in the FIR, 1000 ML liquid bottle and 09 strips of Lomotil containing 20 tablets were recovered from the petitioner. Counsel for the petitioner further submits that as per the FSL report, the liquid contains codeine phosphate and tablets contained Diphenoxylate Hydrochloride. Counsel for the petitioner has relied upon **Iqbal Singh Vs. State of Punjab, 2014 (14) RCR (Criminal) 745**, wherein it has been held as under: -

“The term commercial quantity has been defined in Section 2 (viia), which reads as under:

“(viia) “commercial quantity”, in relation to narcotic drugs and psychotropic substances, means any quantity greater than the quantity specified by the Central Government by notification in the Official Gazette.

As per entry No. 28 of the notification of Central Government bearing No. 1055 (E) dated 19.10.2001, possession of more than 1 kg of Codeine Phosphate falls in commercial quantity.”

It is further submitted on behalf of the petitioner that since the recovery from the petitioner was 1000 ML, which is less than 1 Kg and it does not fall under the commercial quantity. Counsel for the petitioner further submits that the petitioner has undergone 04 months and 27 days of actual sentence and is not involved in any other case under NDPS Act.

Learned State counsel has filed the custody certificate dated 15.12.2017 and the same is taken on record and as per this custody certificate, the petitioner has undergone 04 months and 27 days of actual sentence and he is not involved in any other case under the NDPS Act. Learned State counsel, on instructions from HC Jaswinder Singh, submits that in this case, charges have already been framed and no PW has been examined so far.

Without commenting on merits of the case, considering the fact that recovery from the petitioner is of non-commercial quantity; he is not involved in any other case under the NDPS Act; no prosecution witness has been examined so far and it will take long time in conclusion of the trial, this petition is allowed and the petitioner is directed to be released on bail subject to furnishing his bail/surety bond to the satisfaction of the trial Court/Illaq Magistrate.

Petition is disposed of.

[ARVIND SINGH SANGWAN]
JUDGE

15.12.2017
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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No