

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

CRM-M-5652 of 2017 (O&M)

Date of decision: 18.05.2017

Navdeep Singh @ Deepa

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. D.S. Virk, Advocate for the petitioner(s).

Mr. Saurabh Mohunta, DAG, Haryana.

Jitendra Chauhan, J. (Oral)

By filing the present petition, under Section 439 of the Code of Criminal Procedure, the petitioner has sought regular bail in FIR No. 555 dated 31.12.2015, registered under Sections 21 & 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act'), at Police Station Rania, District Sirsa.

The learned counsel refers to CRM-M-10288-2017 titled as **Lakhvir Singh @ Lakha** vs. **State of Punjab**, decided on 06.04.2017, CRM-M-15582-2017 titled as **Jaspreet Singh @ Laddi** Vs. **State of Punjab**, decided on 09.05.2017, CRM-M-30074 of 2014 titled as **Ravinder Kumar @ Sonu** Vs. **State of Punjab**, decided on 10.08.2016, **Gaunter Edwin Kircher** Vs. **State of Goa, Secretariat Panji, Goa,** 1993 AIR (SC) 1456 and CRM-M-39329 of 2011 titled as **Sham Lal and another** Vs. **State of Punjab**, decided on 07.09.2012 to contend that the

petitioner is alleged to have been apprehended with 52 bottles of Jolyrest but only two bottles were sent to chemical analysis, therefore, there is violation of ratio of law laid down by this Court as well as by Hon'ble the apex Court. He further states that the petitioner was enlarged on interim bail and he did not misuse the concession of bail.

On the other hand, the learned State counsel opposes the bail application and states that salt of the substance is not to be seen, rather the chemical is the relevant consideration which contains intoxicating properties. The recovery of 52 bottles of Jolyrest is a manufactured drug. The petitioner does not possess any licence either under NDPS Act or under Drugs & Cosmetic Act.

Heard.

As per Chapter 3 of Guidelines on Representative Drug Sampling published by the Laboratory and Scientific Section, United Nations Office on Drugs and Crime, Vienna (2009), a uniform representative technique has been suggested. The same is being reproduced as under:-

A representative sampling procedure can be performed on a population of units with sufficient similar external characteristics (e.g. size, colour).

The theoretical way to select a truly random, unbiased representative sample from a population is to individually number each item in the population and then use a random number generator to choose which item to select. This is not possible in practice, especially for large populations containing many thousands of units.

When preparing samples, it is essential that two principles are maintained:

- i. The properties of the sample are a true reflection of the properties of the population from which the samples were taken.*
- ii. Each unit in the population has an equal chance of being selected.*

As per the Fields Officer's Handbook, published by Narcotics Control Bureau, the Ministry of Home Affairs, Govt. of India, in Chapter 8, it has been prescribed as under:-

- *In case the drugs/controlled substances are found in loose form, the same should be packed in unit containers of uniform size and serial numbers should be assigned to each package/container. The gross and net weight, particular of the drug and the date of seizure should invariably be indicated on each package.*
- *Quantity of each representative sample drawn is to be 5 gms. in case of all ND and PS, except ganja and charas where the quantity to be drawn is 24 gms. In case of CS, if the same are in the state of powder or liquid, each sample size should be 5 gm/5 ml (liquid). If it is in a tablet/capsule form, each sample size should contain at least a strip of 10 tablets/capsules.*
- *The seized drug in the packages/containers should be well mixed to make it homogenous so that the sample drawn is representative of the seized substance.*

The Court feels that the suggestions put forth by learned counsel for the petitioner warrant rejection as the purpose of

sampling is to send in a representative quantity and not the whole quantity. It is not the case of the petitioner that the bottles are of different colour, size or weight. Moreover, this is the 3rd bail petition filed by the petitioner. The petitioner does not hold any licence to retain the said bottles. Considering the uniformity of the contraband recovered, the Court feels that a homogeneous sample of 02 bottles was rightly sent by the State for analysis. The case law cited by the learned counsel is distinguishable on facts and will not apply in the present case. Keeping in view the above, no case for grant of regular bail, is made out

Dismissed.

Anything said herein above shall not be construed as an expression of opinion on the merits of the case.

18.05.2017

sumit.k

(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No