

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

CRM-M-8761-2017 (O&M)
Date of decision: 22.03.2017

RAJIV KUMAR

...Petitioner(s)

Versus

STATE OF PUNJAB

...Respondent(s)

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present : Mr. Dinesh Mahajan, Advocate for the petitioner (s).

Mr. Mehardeep Singh, Addl. A.G., Punjab

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.77 dated 26.10.2016, registered under Sections 21 and 22 of NDPS Act, at Police Station Shahpur Kandi, Pathankot.

Contentends that the recovery of the alleged contraband i.e. heroin being 250 gm. is non-commercial. In fact it is less than allegedly reflected in the FIR as the weight of the polythene bag has also been added towards the weight of the contraband. Even if the recovery is taken at 250 gm. even than the same remains non-commercial quantity as the commercial quantity starts above 250 gm. Similarly situated co-accused, Manoj Kumar has been admitted to bail by this Court. The petitioner is in custody since 26.10.2016. He is not involved in any other FIR.

On the other hand, the learned State counsel vehemently opposes the present petition. However, he fairly admits that the petitioner is not involved in any other FIR.

Heard.

Considering the facts that the petitioner is in custody since 26.10.2016; he is not involved in any other FIR; towards the weight of the alleged contraband, weight of the polythene has also been included; and similarly situated co-accused, Manoj Kumar has been enlarged on bail, therefore, no purpose would be served in keeping the petitioner behind the bars, without adverting to the merits of the instant case, this petition is allowed. The petitioner be admitted to bail during the pendency of the trial, on his furnishing bail bonds and surety bonds, to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate, concerned.

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

22.03.2017

ashok

(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned: Yes / No

Whether reportable: Yes / No