

202.

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

CRM-M-9517-2017

Date of decision:20.07.2017.

RAKESH

... Petitioner

versus

STATE OF HARYANA

.... Respondent

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Parminder Singh Sekhon, Advocate,
for the petitioner.

Mr. Manish Bansal, DAG, Haryana.

HARI PAL VERMA, J. (Oral)

Prayer in this petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in case FIR No.755 dated 18.12.2016 under Section 21-C of NDPS Act, Police Station Sadar Fatehabad, District Fatehabad, during the pendency of trial. Further, there is an alternative prayer that the petitioner may be admitted on interim bail till the report from the FSL is received by the prosecution.

Learned counsel for the petitioner has argued that in the aforesaid FIR, the alleged recovery is of 10000 tablets of Microlit. The petitioner is in custody since 18.12.2016. The FSL report in the case is still awaited and it is only on the basis of FSL report, the prosecution can form an opinion whether the petitioner is prima facie guilty of offence under the NDPS Act or not. He relies upon a Division Bench

judgment of this Court rendered in **Inderjeet Singh @ Laddi and others Versus State of Punjab-2014(3) R.C.R. (Criminal) 953** to contend that when FSL report is not received and challan has been presented, without such FSL report, the petitioner deserves to be released on interim bail.

Learned State counsel, on instructions from ASI Rajmal, states that the FSL report in the case is awaited, for which, the concerned laboratory has been reminded. He relies upon judgment passed by this Court in **CRM-M-37781-2014, dated 13.05.2015 titled as 'Surjit Singh Versus State of Punjab'** to contend that when the challan is present without the FSL report, petitioner is not entitled for regular bail.

I have heard learned counsel for the parties.

The judgment cited by learned State counsel in **Surjit Singh's case** (supra) is not applicable in the facts and circumstances of the present case, particularly when the petitioner has made an alternative prayer for interim bail in the absence of FSL report. Admittedly, the FSL report has not been received in the case and in the absence of the report, it is difficult to accept as to whether the tablets recovered from the petitioner strictly falls under the provisions of NDPS Act or not.

Accordingly, without commenting upon the merits of the case but taking into consideration the judgment of this Court in **Inderjeet Singh's case** (supra) the petitioner is ordered to be released

on interim bail, on his furnishing adequate bail bonds/surety bonds to the satisfaction of the trial Court.

However, it is made clear that if on receipt of Chemical Examiner's report, it is found that the alleged recovery made from the petitioner falls under the NDPS Act, he shall be taken in custody forthwith.

The petition is disposed of accordingly.

(HARI PAL VERMA)
JUDGE

20.07.2017
sanjeev

Whether speaking/reasoned?	Yes/No
Whether reportable?	Yes/No