

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

**CRM-M No.13812 of 2018
Date of Decision: 17.04.2018**

Tejinder Singh @ Prince

.....Petitioner

Vs

State of Punjab

.....Respondent

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. F.S. Virk, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

RAJ MOHAN SINGH, J.(Oral)

Petitioner seeks grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.244 dated 29.09.2017 registered under Sections 22/61/85 of the NDPS Act and Sections 61/1/14 of the Excise Act at Police Station City Rajpura, District Patiala.

FIR was registered on the basis of secret information. 1860 tablets of lomotil were recovered from the petitioner. 140 tablets of lomotil and 145 tablets of Alprazolam were recovered from co-accused Bittu Kumar @ Sonu who has already been granted regular bail by this Court vide order dated 12.01.2018

passed in CRM-M No.156 of 2018. Out of alleged recovery of 1860 tablets, 60 tablets were subjected to FSL.

As per allegations in the FIR, there was no batch mark on the tablets so recovered from the petitioner. As per FSL report, average weight of tablets came out to be 60 Mgs. In the absence of batch mark, total weight of the contraband cannot be considered. Only 60 tablets were drawn as representative samples. As per FSL report, contraband is found to be Diphenoxylate Hydrochloride.

In view of ratio laid down in **Gaunter Edwin Kircher Vs. State of Goa, Secretariat, Panaji, Goa, 1993 AIR (SC) 1456** and **State of Punjab Vs. Dharam Singh, 2010(3) RCR (Criminal) 94 DB**, the entire bulk has to be sent for chemical analysis.

Learned State Counsel on instructions from ASI Surjit Singh submitted that representative samples were drawn in the presence of the Magistrate and thereafter, samples were sent to FSL. Petitioner is in custody since 30.09.2017.

The plea would be debatable as to the exact quantity of contraband recovered from the petitioner in view of sending of only 60 tablets for chemical analysis.

At this stage, without meaning anything on the merits of

the case, I deem it appropriate to enlarge the petitioner on regular bail subject to his furnishing adequate bail bonds and surety bonds to the satisfaction of the trial Court.

Nothing expressed hereinabove would be construed to be an expression of any opinion on merits of the case.

April 17, 2018.
Prince

(RAJ MOHAN SINGH)
JUDGE

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