

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

**Crl. Misc. No.M-14825 of 2018 (O&M)
Date of Decision: July 16, 2018**

Gurdeep Singh @ Deepa

.....PETITIONER(s).

VERSUS

State of Punjab

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. K.S. Brar, Advocate
for the petitioner (s).

SURINDER GUPTA, J.(Oral)

The present petition has been filed under Section 439 Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 28 dated 05.04.2017 registered for the offences punishable under Sections 22 of Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station Sadar Abohar, District Fazilka.

Heard.

Notice of motion.

On asking of the court, Mr. Ramandeep Sandhu, Sr. DAG, Punjab, who is present in the Court accepts notice and submits that intimation by Registry informing of fixation of the petition has already been received and record of the case is available with him.

The petitioner was arrested on 05.04.2017 and recovery of 720 tablets brand Prozolam (Alprazolam), 720 tablets brand Limotil

(Diphenoxylate Hydrochloride) and 600 tablets Realdol/SR was effected from his possession, out of which tablets of Prozolam and Limotil were contraband.

Learned counsel for the petitioner has argued that the recovery of salt Diphenoxylate Hydrochloride falls in non-commercial quantity of contraband, while as per the prosecution, the recovery of Alprazolam weighing 107/108 grams was more than commercial quantity.

Recovery of tablets of Limotil of two batches was effected from the petitioner. While 600 tablets were of batch 03-L-6076 and 120 tablets were of batch No.03-L-6032. As per FSL report, average weight of tablet of batch No.03-L-6076 was 62.82 and that of tablet of batch No.03-L-6032 was 63.70. This shows that tablets of the same manufacturer were having different weight. The average weight of tablets of brand Prozolam is mentioned in the FSL report is 149.88. It is not weight of one tablet. As such, there is possibility of little variation in the weight of the tablet and the total quantity may come down to 100 or less. However, this fact is to be seen by learned trial Court at the time of finally deciding the trial on merits.

Keeping in view the above facts but without expressing any opinion on merits of the case, the present petition is allowed. Petitioner Gurdeep Singh @ Deepa is ordered to be released on regular bail on furnishing bail bond and surety bond to the satisfaction of concerned Chief Judicial Magistrate/Duty Magistrate, subject to following terms:-

- a. The petitioner shall comply with the conditions mentioned in Section 437(3) Cr.P.C.
- b. In the event of his absence on any date of hearing, the benefit of bail allowed to the petitioner shall stand withdrawn. The

trial Court shall be competent to cancel his bail bond and surety bond and proceed to procure his presence in accordance with law. In that eventuality the petitioner shall have to apply for bail afresh.

- c. He shall not leave the country without prior permission of the Court.

It is, however, made clear that nothing observed in this order shall be construed as an expression of this Court on the merits of the case.

July 16, 2018
Sachin M.

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned: ***Yes/No***

Whether Reportable: ***Yes/No***