

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

CRM-M-15585-2018

Date of decision: November 13, 2018

Sarjit

....Petitioner

Versus

Narcotics Control Bureau and another

....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ SHEKHAR ATTRI

Present: Mr. Vivek Khatri, Advocate
for the petitioner.

Mr. D.D. Sharma, Advocate
for respondent No.1.

Mr. Raj Kumar Makkad, DAG, Haryana.

RAJ SHEKHAR ATTRI, J.(ORAL)

The present petition has been filed under Section 439 Code of Criminal Procedure for grant of regular bail to the petitioner in Crime No.81 dated 15.12.2017 registered for the offences punishable under Sections 8, 20, 23, 25, 29, 60 of Narcotic Drugs and Psychotropic Substances Act (for short 'the Act'), Narcotics Control Bureau, Chandigarh Zonal Unit, Sector 25 (W), Chandigarh.

This is case of the prosecution that on the basis of secret information, place of occurrence was raided. Petitioner escaped from the spot. However, recovery has been effected from the co-accused.

Subsequently, petitioner was summoned and he suffered a statement under Section 67 of the Act and disclosed that contraband was arranged by both of them. The recovery effected in this case falls within the ambit of commercial quantity. Therefore, provisions of Section 37 of the Act are applicable. In a recent judgment Hon'ble the Supreme Court in case

Satpal Singh Vs. State of Punjab, 2018(5) 519 has discussed in detail with

regard to bail in commercial quantity of the contraband which read as under:-

3. Section 37 of the NDPS Act reads as follows :-

“Offences to be cognizable and non-bailable – (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) -

(a) every offence punishable under this Act shall be cognizable;

(b) no person accused of an offence punishable for [offences under section 19 or section 24 or section 27A and also for offences involving commercial quantity] shall be released on bail or on his own bond unless -

(i) the Public Prosecutor has been given an opportunity to oppose the application for such release, and

(ii) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.(2) The limitations on granting of bail specified in clause (b) of sub-section (1) are in addition to the limitations under the Code of Criminal Procedure, 1973 (2 of 1974) or any other law for the time being in force, on granting of bail.]” (Emphasis supplied)

4. Under Section 37 of the NDPS Act, when a person is accused of an offence punishable under Section 19 or 24 or 27A and also for offences involving commercial quantity, he shall not be released on bail unless the Public Prosecutor has been given an opportunity to oppose the application for such release, and in case a Public Prosecutor opposes the application, the court must be satisfied that there are reasonable grounds for believing that the person is not guilty of the alleged offence and that he is not likely to commit any offence while on bail. Materials on record are to be seen and the antecedents of the accused is to be examined to enter such a satisfaction. These limitations are in addition to those prescribed under the Cr.P.C or any other law in force on the grant of bail. In view of the seriousness of the offence, the law makers have consciously put such stringent restrictions on the discretion available to the court while considering application for release of a person on bail.”

As such, the petitioner is not entitled to the benefit of regular bail.

Petition is dismissed.

(RAJ SHEKHAR ATTRI)
JUDGE

November 13, 2018
m. sharma

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No