

S.No.209

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

CRM-M-16363 of 2018 (O&M)

Date of Decision:24.09.2018

Arshad

.....Petitioner

Vs.

State of Punjab

.....Respondent

CORAM:- HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present:- Mr. Sukhdev Singh Gopera, Advocate
for the petitioner.
Mr. K.S. Aulakh, DAG, Punjab.

Rajbir Sehrawat, J.(Oral)

The present petition has been filed by the petitioner under Section 439 Cr.P.C for grant of bail pending trial in case FIR No.130 dated 28.10.2017 registered under Sections 22, 61 and 85 of NDPS Act at Police Station Shambhu, District Patiala.

Counsel for the petitioner contends that although 120 bottles of Onerex containing codeine phosphate are alleged to have been recovered from the petitioner, however, the actual quantity of the prohibited substance in the entire recovery is about 25 grams only, which is much less than the commercial quantity. Counsel relies upon a judgment of this Court rendered in case CRM-M-35080 of 2018 – Rajvir Singh @ Raju v. State of Punjab decided on 21.08.2018. It is further contended that the petitioner is in custody since 28.10.2017. Although 25 witnesses have been cited by the prosecution, the examination of the prosecution witnesses has not even been started so far. The petitioner is not required for the purpose of investigation. It is further contended that there is no other case against the petitioner under the NDPS Act.

Counsel for the State, being instructed by ASI Nahar Singh, does not dispute the factum of recovery or the fact that the petitioner is in custody since 28.10.2017. Though the Counsel for the State has submitted that there is one more case under Excise Act, against the petitioner.

In view of the above submissions of counsel for the petitioner, but without commenting any further upon merits of the case, the present petition is allowed. The petitioner is ordered to be released on bail pending trial on his furnishing bail bonds/ sureties to the satisfaction of the trial Court/ Duty Magistrate.

September 24, 2018
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(RAJBIR SEHRAWAT)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No