

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

**Crl. Misc. No.M-22330 of 2018 (O&M)
Date of Decision: July 11, 2018.**

Rajwinder Singh

.....PETITIONER(s).

VERSUS

State of Punjab

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Umesh Aggarwal, Advocate
for the petitioner (s).

Mr. Sandeep Kumar, D.A.G. Punjab.

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. 0143 dated 07.12.2017 registered for the offence punishable under Section 21 of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short-NDPS Act), at Police Station Chola Sahib, District Tarn Taran.

Heard.

As per case of the prosecution, 280 grams of contraband heroin (Diacetylmorphine) was recovered from the possession of petitioner.

Learned counsel for the petitioner submits that recovery of contraband is marginally more than the commercial quantity and relying on the observations in case of *Festus Ugochukwu Vs. State of Punjab (CRM-M-37253-2016 decided on 07.12.2016)*, he seeks bail for the petitioner.

Section 37 NDPS Act lays down circumstances in which bail can be allowed in case of recovery of commercial quantity of contraband. Hon'ble Apex Court in case of *Union of India Vs. Niyazuddin Sk.& Anr. 2017(4) R.C.R. (Criminal) 644*, has observed that where the bail application has been opposed by the Public Prosecutor, two conditions are mandatorily to be satisfied in addition to the normal requirements, which are as follows:-

- (1) The court must be satisfied that there are reasonable grounds for believing that the person is not guilty of such offence;
- (2) that person is not likely to commit any offence while on bail.

Learned counsel for the petitioner submits that this is the only case registered against the petitioner under the provisions of NDPS Act. No other case has been registered against him for possession of contraband, as such, he be allowed regular bail during pendency of the trial.

Learned State counsel while opposing the grant of bail to the petitioner submits on instructions from ASI Balraj Singh that though no other case under the provisions of NDPS Act has been registered against the petitioner but he is accused in three other cases registered against him under various provisions of Indian Penal Code and Arms Act.

Recovery of 280 grams of heroin was effected from the petitioner in the presence of a gazetted police officer.

In view of the above facts and on perusal of the FIR, I find no reasonable ground to hold at this stage that the petitioner is not guilty of the offence alleged against him and is not likely to commit such offence, if

released on bail. Keeping in view the provisions of Section 37 of NDPS Act, I find no reason to grant regular bail to the petitioner.

This petition has no merits.

Dismissed.

However, the trial Court is directed to expedite the dispose of the case.

July 11, 2018
Sachin M.

(SURINDER GUPTA)
JUDGE

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

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