

208

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

CRM-M No.2296 of 2018
Date of Decision: 25.01.2018

Yogeshwar Singh

.....Petitioner

Vs

State of Punjab

.....Respondent

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

Present: Mr. Sandeep Verma, Advocate
for the petitioner.

Mr. Hittan Nehra, Addl. A.G., Punjab.

RAJ MOHAN SINGH, J.(Oral)

Petitioner seeks grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.155 dated 30.06.2017, registered under Section 22/61/85 of NDPS Act at Police Station City Rajpura, District Patiala.

As per allegations in the FIR, two persons alighted from the rear door of the bus who were carrying black Pithoo bag on their shoulder and started running in the opposite direction on seeing the police party. They were apprehended on the basis of suspicion. 140 bottles of ONEREX weighing 100 ml each were recovered from the petitioner. Similar quantity was allegedly recovered from co-accused Sukhvir. On analysis, the

contraband was found to be containing Codeine Phosphate.

Learned counsel for the petitioner submits that Codeine being a manufacturing drug and also being a contraband in terms of Serial No.28 of the Schedule has to be treated as a manufacturing drug punishable under Section 21 of the NDPS Act as per Govt. of India Notification No.SO 826 (E) dated 14.11.1985 and SO 40(E) dated 29.01.1993.

In view of CRM No.33873 of 2016 in CRA-S No.1614-SB of 2014 **Deepak Kumar versus State of Punjab**, CRM No.3018 of 2015 in CRA-S No.3080-SB of 2014 **Rajesh Kumar versus State of Punjab**, CRM No.4935 of 2016 in CRA-S No.4231-SB of 2015 **Meena Rani versus State of Punjab**, CRM No.9547 of 2016 in CRA-S No.4081-SB of 2014 **Kulwinder Singh versus State of Punjab**, the issue is debatable as to the trial of manufacturing drug under Section 22 of the NDPS Act.

Secondly, the issue with regard to competence of the person lodging the FIR to investigate the offence himself being complainant would also be debatable on the strength of **Gannu and another vs State of Punjab 2017(3) RCR (Criminal) 566, Laltu Prasad vs State of West Bengal, 2017(2) RCR (Criminal) 237 (Calcutta) (DB) and State of Himachal Pradesh vs Atul Sharma and others, 2015(6) RCR (Criminal)**

949.

At this stage, without meaning anything on the merits of the case, I deem it appropriate to grant regular bail to the petitioner.

In view of above, petition is allowed. Petitioner is ordered to be enlarged on bail, subject to his furnishing adequate bail bonds/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.

25.01.2018
jyoti

(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned Yes/No

Whether reportable Yes/No