

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

CRM No.M-2407 of 2018 (O&M)
Date of Decision: September 11, 2018

Rakesh

...Petitioner

VERSUS

Narcotics Control Bureau, Delhi Zonal Unit

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.A.P.S.Deol, Senior Advocate with
Mr.Himmat Singh Deol, Advocate
for the petitioner.

INDERJIT SINGH, J.

Petitioner has filed this petition under Section 439 Cr.P.C. for grant of regular bail in complaint NCB No.VIII/14/DZU/2017 dated 07.04.2017 under Sections 20, 25 and 29 of the NDPS Act, registered at Police Station NCB Delhi Zonal Unit.

Notice of motion.

Mr.D.D.Sharma, Advocate has put in appearance on behalf of the respondent and contested the petition.

I have heard learned counsel for the parties and have gone through the record.

As per complainant's version, from the car, which was driven by present petitioner, 28 packets containing charas were recovered, which were concealed therein and total charas, on weighment came to 13 kgs.

Learned counsel for the petitioner argued that first of all, only one sample has been sent for chemical analysis and one parcel is about 500 grams and only that quantity is to be taken, which fall under non-commercial quantity. Secondly, he argued that in the report of Chemical Examiner (CRCL), no details have been mentioned regarding presence of 'Tetrahydrocannabinol' etc. Therefore, report of Chemical Examiner cannot be relied upon and the recovery might have been 'Ganja' or 'Bhaang'.

On the other hand, learned counsel for the respondent argued that powder of all the packets was tested at the spot with the help of testing kit and it was found to be charas and then all the packets were mixed homogeneously and then two samples were drawn, one was sent for testing and report of Chemical Examiner is *per se* admissible. He further argued that complainant will prove by bringing Chemical Examiner that the sample was found to be charas and petitioner will have the opportunity to cross-examine the witnesses. He also contended that for the purpose of bail petition, it is sufficient that report of Chemical Examiner is there showing the contraband as charas and the averment that all the packets were tested on the spot with the help of testing kit and material was found to be charas.

In view of the above facts, I find that *prima facie*, report of Chemical Examiner is there and averment of the complainant is there in the complaint that packets were tested on the spot with the help of testing kit and those were found to be containing charas. At this stage, there is nothing to show on record that recovered powder was not charas. As the parcels were mixed homogeneously and then sample was sent, therefore, it cannot said that sample was sent from one parcel only.

quantity. Section 37 of the NDPS Act bars the grant of bail to the accused in the case of commercial quantity.

Keeping in view the facts and circumstances of the present case, without discussing the facts in minute detail and without expressing any opinion on the merits of the case, I do not find it a fit case where petitioner is entitled to benefit of regular bail.

Therefore, finding no merit in the present petition, the same is dismissed.

However, nothing stated above, shall constitute my opinion on merits of the case.

September 11, 2018
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No