

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

Criminal Misc. No.M-31632 of 2018

Date of Decision: 11.12.2018

Nand Lal

...Petitioner(s)

Versus

State of Punjab

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

Present:- Mr. Rahul Rampal, Advocate
for the petitioner.

Mr. Rana Harjasdeep Singh, DAG, Punjab.

HARI PAL VERMA, J. (Oral)

Prayer in the present petition filed under Section 439 of the Code of Criminal Procedure, 1973 is for grant of regular bail to the petitioner in case FIR No.46 dated 30.04.2018 under Section 22 of the NDPS Act registered at Police Station Sarhali, Tehsil and District Tarn Taran.

Mr. Rahul Rampal, Advocate has put in appearance on behalf of the petitioner has filed his power of attorney in Court which is taken on record.

Learned counsel for the petitioner submits that the alleged recovery effected from the petitioner is 1500 tablets of Tramadol and he is in custody since 30.04.2018. There is no other case pending against the

petitioner. It is only on account of notification dated 26.04.2018, whereby the tablet Tramadol has been brought within the ambit of NDPS Act, the petitioner has been involved in the present case. In fact, the said notification has never come to the notice of the petitioner. Rather, the petitioner became aware of the said notification on 08.05.2018 when it was first published by the customs authorities.

Learned State counsel, on instructions from HC Kulbir Singh, has argued that once there is a notification by the Government for bringing the contraband within the ambit of NDPS Act, the argument raised on behalf of the petitioner that he was not aware of the same, is irrelevant. In fact that quantity so recovered from the petitioner falls in commercial quantity.

I have heard learned counsel for the parties.

Undisputedly, the petitioner is in custody since 30.04.2018 and there is no other case pending against him. It is by virtue of notification dated 26.04.2018, the tablet Tramadol has been brought within the ambit of NDPS Act whereas the alleged recovery was effected from the petitioner on 30.04.2018. Thus, at this stage, the plea raised on behalf of the petitioner that he was not aware about the notification dated 26.04.2018, is certainly one of the defence available to the petitioner during trial. Considering the fact that trial in the case will take sufficiently long time and no useful purpose will be served to keep the petitioner in custody, I deem it appropriate to release him on regular bail.

Accordingly, the present petition is allowed and the petitioner is admitted on regular bail, subject to furnishing of his bail bonds/surety bonds to the satisfaction of trial Court.

December 11, 2018
AK

(HARI PAL VERMA)
JUDGE

Whether speaking / reasoned?	Yes / No
Whether reportable?	Yes / No