

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

**CRM NO. M-31981 OF 2018
DATE OF DECISION : 23.10.2018**

Malkiat Singh @ Shiva

...Petitioner

versus

State of Punjab

...Respondent

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present : Mr. Tapish Gupta, Advocate for
Ms. Puja Chopra, Advocate,
for the petitioner.

Mr. Surinder Singh, AAG, Haryana.

RAJBIR SEHRAWAT, J. (ORAL)

Present petition has been filed for seeking bail pending trial in FIR No.45 dated 09.03.2018 for the offences punishable under Sections 21, 22, 29 of the NDPS Act, registered at Police Station City Moga, District Moga.

Learned counsel for the petitioner contends that even as per the case of prosecution, the alleged recovery from the petitioner is of 1200 tablets containing Alprazolam and 125 gms of powder containing Heroin. However, as per the Forensic Science Laboratory report, the Alprazolam is found to be 0.43 mg per tablet and the quantity of the prohibited substance in the alleged powder is found to be 25.16%. Therefore, the alleged recovery from the petitioner is of non-commercial quantity.

Learned counsel for the petitioner has relied on the judgment of this Court rendered in ***CRM-M-35080-2018; Rajvir Singh @ Raju vs. State of Punjab*** decided on **21.08.2018**. It is further contended by learned counsel that the petitioner is in custody since 09.03.2018. The challan has already been filed. There is no other case pending against the petitioner as of today. Therefore, no purpose will be served by keeping the petitioner behind the bars.

On the other hand learned State counsel, being instructed by HC Balbir Singh, submits that recovery from the petitioner is of commercial quantity. Although he has not disputed the fact regarding custody of the petitioner, however, it is submitted that petitioner had been involved in two more cases under the NDPS Act.

As response to this, learned counsel for the petitioner submits that out of the two cases, referred to by the learned State counsel, in one case, the petitioner was acquitted; whereas in the another case, he was sentenced only for 25 days imprisonment, which he has already completed long back. He has reasserted that there is no other case pending against the petitioner as of today.

Keeping in view the submissions made by learned counsel for the petitioner, but without commenting any further on the merits of the case, the present petition is allowed. Petitioner is granted the concession of bail pending trial. He be

released on bail pending trial, subject to furnishing bail bonds/surety to the satisfaction of the Trial Court/Duty Magistrate.

(RAJBIR SEHRAWAT)
JUDGE

OCTOBER 23, 2018
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Whether speaking/reasoned : YES/NO
Whether reportable : YES/NO