

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

CRM-M-43060-2018

Date of decision: December 10, 2018

Veena

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ SHEKHAR ATTRI

Present: Mr. H.S. Dhindsa, Advocate
for the petitioner.

Mr. C.L. Pawar, Senior DAG, Punjab.

RAJ SHEKHAR ATTRI, 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.27 dated 08.04.2017 registered for the offence punishable under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the Act') at Police Station Garhdiwala, District Hoshiarpur.

Learned State counsel submitted that the recovery effected from the petitioner was 125 gms of alprazolam.

Learned counsel for the petitioner submitted that as per the report of Chemical Examiner, approximately 30% of the alprazolam of the psychotropic substance was recovered but to the mind of this court, entire weight of recovery should be considered to determine the quantity of contraband. The recovery effected in this case falls within the ambit of commercial quantity. Therefore, provisions of Section 37 of the Act are applicable. In a recent judgment Hon'ble the Supreme Court in case

Satpal Singh Vs. State of Punjab, 2018(5) 519 has discussed in detail

with regard to bail in commercial quantity of the contraband which read as under:-

3. Section 37 of the NDPS Act reads as follows :-

“Offences to be cognizable and non-bailable – (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) -

(a) every offence punishable under this Act shall be cognizable;
(b) no person accused of an offence punishable for [offences under section 19 or section 24 or section 27A and also for offences involving commercial quantity] shall be released on bail or on his own bond unless -

(i) the Public Prosecutor has been given an opportunity to oppose the application for such release, and

(ii) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.(2) The limitations on granting of bail specified in clause (b) of sub-section (1) are in addition to the limitations under the Code of Criminal Procedure, 1973 (2 of 1974) or any other law for the time being in force, on granting of bail.]” (Emphasis supplied)

4. Under Section 37 of the NDPS Act, when a person is accused of an offence punishable under Section 19 or 24 or 27A and also for offences involving commercial quantity, he shall not be released on bail unless the Public Prosecutor has been given an opportunity to oppose the application for such release, and in case a Public Prosecutor opposes the application, the court must be satisfied that there are reasonable grounds for believing that the person is not guilty of the alleged offence and that he is not likely to commit any offence while on bail. Materials on record are to be seen and the antecedents of the accused is to be examined to enter such a satisfaction. These limitations are in addition to those prescribed under the Cr.P.C or any other law in force on the grant of bail. In view of the seriousness of the offence, the law makers have consciously put such stringent restrictions on the discretion available to the court while considering application for release of a person on bail.”

No case is made out to grant to grant concession of regular bail.

Petition stands dismissed accordingly.

(RAJ SHEKHAR ATTRI)
JUDGE

December 10, 2018
m. sharma

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No