

S.No.210

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

CRM-M-43973 of 2018 (O&M)

Date of Decision:10.12.2018

Fatehjit singh @ Fateh

.....Petitioner

Vs.

State of Punjab

.....Respondent

CORAM:- HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present:- Mr. Amandeep Singh, Advocate
for the petitioner.

Mr. K.S. Aulakh, DAG, Punjab.

Rajbir Sehrawat, J.(Oral)

The present petition has been filed by the petitioner under Section 439 Cr.P.C for grant of bail pending trial in case FIR No.220 dated 06.08.2018 registered under Section 22 of NDPS Act, 1985 at Police Station Division No.6, Ludhiana.

Counsel for the petitioner contends that even as per the case of the prosecution, the alleged recovery from the petitioner is of a powder weighing 500 grams containing heroin. However, as per the FSL report, the content of prohibited substance in the powder is found to be 33%, which means that the prohibited substance found in the powder is 165 grams, which is less than commercial quantity. Counsel has relied upon a judgment of this Court in **CRM-M-35080 of 2018 – Rajvir Singh @ Raju v. State of Punjab** decided on 21.08.2018, to support his contention. It is further contended that the petitioner is in custody since 06.08.2018. Still further, the submission of the counsel is that there is no other case against the petitioner. Investigation of the case is complete. He is not required for any investigation purposes.

On the other hand, learned counsel for the State, being instructed by ASI Gurmit Singh, submits that there is heavy recovery of 500 grams from the petitioner. The recovery from the petitioner is of commercial quantity. However, counsel for the State has not disputed the fact that as per the FSL report, the quantity of the prohibited substance found in the material recovered from the petitioner is 33% only. It is also not disputed that there is no other case against the petitioner.

In view of the above, but without commenting any further upon merits of the case, the present petition is allowed. It is ordered that the petitioner be released on bail on his furnishing bail bonds/ sureties to the satisfaction of the trial Court/ Duty Magistrate.

December 10, 2018
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(RAJBIR SEHRAWAT)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No