

269 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-45946-2018 (O&M)

Date of decision:17.12.2018

Sukhpal Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present: Mr. Nirmal Singh, Advocate
for the petitioner.

Mr. Rajat Bansal, AAG, Punjab.

RAJBIR SEHRAWAT, J. (ORAL

Present petition has been filed under Section 439 of Cr.P.C. for seeking bail pending trial in FIR No.126 dated 24.12.2017 for the offences punishable under Section 22 of NDPS Act, registered at Police Station Cantt. Bathinda.

Learned counsel for the petitioner contends that even as per the case of the prosecution, the alleged recovery from the petitioner is 5 ltr. of orange coloured liquid contained in plastic bottle labelled as WINCEREX and 900 tablets of CARISOMA. It is contended by the counsel for the petitioner that so far as the substance found in the tablets CARISOMA is concerned, it is not declared as a prohibited substance under the NDPS Act. This fact has even been mentioned in the order of Court below. So far as the recovery of liquid is concerned, it is contended that the WINCEREX contains Codeine Phosphate, which is a prohibited substance. However, the total quantity of prohibited substance in the entire recovery is only 9.4 grams, which is much less than the commercial quantity prescribed for the prohibited substance. Learned counsel for the petitioner has relied upon the

judgment of this Court dated 21.08.2018 rendered in ***Rajvir @ Raju Vs.***

State of Punjab in CRM-M-35080 of 2018, to support his contention. Still further, it is contended that there is no other case against the petitioner. The petitioner is in custody since 24.12.2017 and he is not required for any investigation purposes. The trial shall take a long time.

On the other hand, learned State counsel, being instructed by HC Jagmail Singh, submits that the alleged recovery from the petitioner is a huge quantity. However, he has not disputed the fact that the substance found in CARISOMA tablets is not declared a prohibited substance. It is also not disputed that as per the FSL report, the total quantity of Codeine Phosphate found in the alleged recovery of the liquid is only 9.4 grams. Still further, it is also not disputed that there is no other case against the petitioner.

In view of the above, without commenting 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 his furnishing bail bonds/surety to the satisfaction of the Trial Court/Duty Magistrate.

(RAJBIR SEHRAWAT)
JUDGE

17.12.2018
Hemlata

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