

Sr. No.210

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

**CRM-M-47613-2018
Date of decision:11.12.2018**

Balraj Singh @ Balu

.....Petitioner

versus

State of Punjab

.....Respondent

Coram: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present: Mr. Amit Arora, dvocate
for the petitioner.

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

Rajbir Sehrawat, J(Oral)

Present petition has been filed for seeking bail pending trial in FIR No.100 dated 14.04.2018 for the offences punishable under Sections 399/402/379/411 of IPC and Section 25 of Arms Act and Section 21/22 of the NDPS Act, 1985 registered at Police Station City Tarn Taran, District Tarn Taran.

Learned counsel for the petitioner contends that even as per the case of the prosecution, the alleged recovery from the petitioner is of 260 gms of powder containing Herion. However, as per the FSL report, the quantity of prohibited substance in this recovery is only 33%. Hence the recovery from the petitioner is of a quantity less than the commercial quantity prescribed for the substance. In support of his contention learned counsel for the petitioner has relied upon 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 for the

petitioner that the petitioner is in custody since 14.04.2018. Petitioner is no more required for investigation purposes.

On the other hand learned State counsel, being instructed by ASI Kewal Singh, submits that the recovery from the petitioner is of 260 gms. It is a commercial quantity. It is further pointed out that the petitioner is also involved in another case under Section 379 IPC. Hence the petitioner is a habitual offender. However, learned State counsel has not disputed the fact that the quantity of prohibited substance in the alleged recovery is found to be 33% only.

In response to the submissions made by learned State counsel, learned counsel for the petitioner has submitted that in another case, the petitioner has been involved only when he was arrested in the present case.

Be that as it may, in view of the submissions made by learned counsel for the petitioner, but 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 furnishing bail bonds/surety to the satisfaction of the concerned Trial Court/Duty Magistrate.

11th December, 2018

Shivani Kaushik

**[RAJBIR SEHRAWAT]
JUDGE**

Whether speaking/reasoned *Yes/No*

Whether Reportable *Yes/No*