

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CRM-M No.53243-2018 (O&M)

Date of decision : 07.12.2018

**Budhu Kumar @ Bittu Kumar**

..... Petitioner

**Versus**

**State of Punjab**

..... Respondent

**CORAM : HON'BLE MR. JUSTICE KULDIP SINGH**

Present: Mr.Amit Dhawan, Advocate for the petitioner  
Mr.Karanbir Singh, AAG Punjab

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

**KULDIP SINGH J. (Oral)**

Petitioner seeks regular under Section 439 Cr.P.C. in FIR No.422 dated 23.12.2017 registered under Section 22 of Narcotic Drugs and Psychotropic Substances Act, 1985, at Police Station Sadar, Nakodar, District Jalandhar.

Heard.

It is alleged against the petitioner that police apprehended him and recovered one plastic bag from his right pocket. The plastic bag contained intoxicating powder. The intoxicating powder along with the bag was weighed, which came to 105 grams. Contents of intoxicating powder were found to be Alprazolam. 100 grams of said powder is commercial quantity.

Learned counsel for the petitioner contends that since intoxicating powder was weighed along with the bag as per allegations in

the FIR itself, therefore, it cannot be said that the weight of the powder is 105 grams.

After going through the FIR, I am of the view that the intoxicating powder was not separately weighed. It was weighed along with the plastic bag, in which, the said powder was contained. Therefore, there is every likelihood that the weight of the said plastic bag was more than 5 grams. If it is so, the recovery will come down to less than 100 grams and it will be non-commercial quantity.

Considering the same, the present petition is allowed. Petitioner is ordered to be released on bail on his furnishing personal bonds in the sum of Rs. 1,00,000/- with one surety of the like amount to the satisfaction of learned trial Court, subject to the following conditions:-

- (i)The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer,
- (ii)The petitioner will surrender his passport before the trial Court, if any and shall not leave India without the prior permission of the Court.
- (iii)He will appear before trial Court on each and every date of hearing, in case of his absence, trial Court shall be competent to cancel his bail.

**07.12.2018**

*gk*

**(Kuldip Singh)  
Judge**

Whether speaking/ reasoned:

Yes

Whether Reportable:

No