

S.No.217

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

CRM-M-54271 of 2018 (O&M)

Date of Decision:13.12.2018

Rahul KumarPetitioner

Vs.

State of PunjabRespondent

CORAM:- HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present:- Mr. Raj Kumar Gupta, 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.66 dated 14.07.2018 registered under Sections 365/506 IPC, 21/22/29 of NDPS Act and 25 of Arms Act, 1959 at Police Station Banur Patiala.

Counsel for the petitioner contends that the case against the petitioner is totally fabricated for malafide reasons; because he has got lodged complaint against police officers under Prevention of Corruption Act. The petitioner does not indulge in any drug trafficking and even use of the same. The petitioner is a businessman involved in import and export of goods. The recovery against the petitioner is totally fabricated. It is further contended that even if the case of the Police is taken to be correct, then also the alleged recovery from the petitioner is 16 injections of Buprenorphine and 2340 tablets of lomotil; which contained prohibited substance dyphenoxylate hydrochloride. However, as per the FSL report, the quantity of actual prohibited substance found in this recovery is much less than the commercial quantity. Learned counsel has relied upon **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 there is no case of a similar nature against the petitioner. The petitioner is in custody since 23.07.2018.

On the other hand, counsel for the State, being instructed by ASI Balkar Singh, submits that the recovery of huge quantity has been made at the instance of the petitioner. It is further pointed out that there is another case under Section 420 IPC against the petitioner. It is not disputed by the learned State Counsel that the actual quantity of the prohibited substance, as is found, as per the FSL report, is less than the commercial quantity.

In response to the submission made by counsel for the State, learned counsel for the petitioner submits that the said another case against the petitioner, under Section 420 IPC; has been created by the Police, only after he was arrested in the present case.

Be that as it may, in view of the submission of learned counsel for the petitioner, 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 13, 2018
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(RAJBIR SEHRAWAT)
JUDGE

Whether Speaking/reasoned
Whether Reportable

Yes/No
Yes/No