

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

**Crl. Misc. No.M-7824 of 2018 (O&M)
Date of Decision: July 19, 2018**

Bittu Singh @ Bittu @ Baldev Singh

.....PETITIONER(s).

VERSUS

State of Punjab

.....RESPONDENT(s).

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. K.S. Dhaliwal, Advocate
for the petitioner (s).

Mr. Ramandeep S. Sandhu, Sr. DAG Punjab.

SURINDER GUPTA, J.(Oral)

The present petition has been filed under Section 439 Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 183 dated 23.08.2016 registered for the offence punishable under Section 21 Narcotic Drugs and Psychotropic Substances Act, 1985, at Police Station City-1, Abohar, District Fazilka.

Heard.

Learned counsel for the petitioner argues that weight of intoxicant powder, which was later on found to be heroin, was weighed on the computer scale along with glazed envelop and was found to be 260 grams. Weight of the glazed/plastic envelop was not taken separately, as such, it cannot be said that recovery of contraband was of commercial quantity. The petitioner has right to plead and prove in his defence that

weight of plastic/glazed envelop, if excluded from the total weight, the contraband was less than 250 grams, which falls in non-commercial quantity.

In view of submission of learned counsel for the petitioner but without expressing any opinion on merits of the case and taking note of the quantum of recovery effected from the petitioner and that he is in custody for the last more than one year ten months, the present petition is allowed. Petitioner Bittu Singh @ Bittu @ Baldev Singh is ordered to be released on regular bail on furnishing bail bond and surety bond to the satisfaction of concerned Chief Judicial Magistrate/Duty Magistrate, subject to following terms:-

- a. The petitioner shall comply with the conditions mentioned in Section 437(3) Cr.P.C.
- b. In the event of his absence on any date of hearing, the benefit of bail allowed to the petitioner shall stand withdrawn. The trial Court shall be competent to cancel his bail bond and surety bond and proceed to procure his presence in accordance with law. In that eventuality the petitioner shall have to apply for bail afresh.
- c. He shall not leave the country without prior permission of the Court.

July 19, 2018
Sachin M.

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No