

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

207

**CRM-M No. 904 of 2018
Date of Decision: 24.01.2018**

AMRITPAL SINGH @ BABBA

.....Petitioner

Vs

STATE OF PUNJAB

.....Respondent

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. IPS Kohli, Advocate
for the petitioner.

Mr.Hittan Nehra, Addl.A.G.Punjab.

RAJ MOHAN SINGH, J.(Oral)

Petitioner seeks grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.159 dated 9.8.2016, registered under Section 22 of the NDPS Act, at P.S. Kotwali, District Kapurthala.

95 grams of intoxicating powder was allegedly recovered from the petitioner. Interim bail was granted to the petitioner on 9.9.2016, but the same was dismissed on receipt of report of the chemical examiner. As per report of the chemical examiner, the contraband was having 2.62% of Diphenoxylate Hydrochloride.

Learned counsel for the petitioner submits that

Diphenoxylate Hydrochloride is a manufacturing drug as per Government of India notification Nos. S.O. 826 (E) dated 14.11.1985 and S.O. 40 (E) dated 29.1.1993 and is covered under Section 21 of the NDPS Act. On the basis of orders passed in **CRM No. 33973 of 2016 in CRA-S No. 1614-SB of 2014** titled as **Deepak Kumar versus State of Punjab**; **CRM No. 3018 of 2015 in CRA-S No.3080-SB of 2014** titled as **Rajesh Kumar vs. State of Punjab**; **CRM No. 4935 of 2016 in CRA-S No. 4231-SB of 2015** titled as **Meena Rani vs. State of Punjab** and **CRM No. 9547 of 2016 in CRA-S-4081-SB of 2014**, titled as **Kulwinder Singh versus State of Punjab**, learned counsel for the petitioner submit that the issue is debatable as to the trial of manufacturing drug under Section 22 of the NDPS Act.

Learned State counsel, on instructions from HC Lakhwinder Pal Singh, submits that the petitioner is also involved in two other cases i.e. FIR No. 322 dated 11.1.2017 under Section 22 of the NDPS Act and FIR No. 45 dated 14.3.2017 under Sections 15, 18, 21 and 22 of the NDPS Act and also under the Excise Act.

The police official present in Court could not assist learned State counsel as to whether the petitioner is in custody or on bail in the aforesaid two cases. However, learned counsel for the petitioner submits that the petitioner is on bail in both the

cases, out of which, he could not furnish bail bonds in case FIR No. 322 dated 11.1.2017 as he is in custody in the present case.

Keeping in view the aforesaid facts, without commenting anything on the merits of the case, at this stage, I deem it appropriate to grant regular bail to the petitioner.

Accordingly, this petition is allowed. Let the petitioner be enlarged on bail, subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of the Trial Court.

Nothing expressed hereinabove would be construed to be an expression of any opinion on merits of the case.

January 24, 2018.

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(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned Yes/No

Whether reportable Yes/No