

204.

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

CRM-M-55910-2018

Date of decision:21.12.2018.

SURESH KUMAR @ NEETA

... Petitioner

versus

STATE OF PUNJAB

.... Respondent

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. S.K. Choudhary, Advocate,
for the petitioner.

Mr. Jagmohan Ghumman, DAG, Punjab.

HARI PAL VERMA, J. (Oral)

Prayer in the present petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in case FIR No.85 dated 23.11.2018 registered under Sections 22 and 22 of NDPS Act at Police Station Division No.1, District Pathankot.

The allegation against the petitioner is that 4 strips containing 10 tablets each of alprest of 0.5, 1 strip of Brudol BTET, 1 intoxicant strip of Clonort 0.5 were recovered from the petitioner. He is in custody since 23.11.2018 and there is no other case against him. Even the FSL report in the case has not been received so far. Therefore, in the absence of FSL report, it is difficult to ascertain whether the alleged contraband recovered from the petitioner falls within the ambit of NDPS Act or otherwise. Trial Court cannot proceed with the matter in the absence of FSL report.

Therefore, so long as the Chemical Examiner's report is not received in the

Learned State counsel has filed photocopy of custody certificate in court today, which is taken on record. The custody certificate does not reflect any other case against the petitioner.

I have heard learned counsel for the parties.

Petitioner is in custody since 23.11.2018 and the recovery is 4 strips containing 10 tablets each of alprest of 0.5, 1 strip of Brudol BTET, 1 intoxicants strip of Clonort 0.5, which is not huge amount of contraband. Trial in the case will take long time. Even otherwise, FSL report in the case has not been received so far. Since in the absence of FSL report, it cannot be ascertained as to whether the recovered contraband falls within the ambit of NDPS Act or otherwise, this Court finds that the petitioner deserves to be admitted on interim bail.

Accordingly, without commenting upon the merits of the case but taking into consideration the judgment of this Court in ***Inderjeet Singh @ Laddi & ors. Versus State of Punjab 2014(3) RCR (Criminal) 953***, the petitioner is ordered to be released on interim bail, on his furnishing adequate bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate till the FSL report become available in the case.

However, it is made clear that if on receipt of Chemical Examiner's report, it is found that the alleged recovery made from the petitioner falls under the NDPS Act, he shall surrender before the trial Court without any delay.

The petition is disposed of accordingly.

(HARI PAL VERMA)
JUDGE

21.12.2018

sanjeev

Whether speaking/reasoned?

Yes/No

Whether reportable?

Yes/No