

S.No.208

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

CRM-M-4234 of 2019 (O&M)

Date of Decision:28.05.2019

LuckyPetitioner
Vs.
State of PunjabRespondent

CORAM:- HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present:- Mr. Yashpal Thakur, Advocate
for the petitioner.

Mr. Prabhjot Singh Walia, AAG,
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.177 dated 18.10.2018 registered under Section 22 of NDPS Act at Police Station Fatehgarh Sahib, Tehsil and District Fatehgarh Sahib, Punjab.

Learned counsel for the petitioner contends that the case against the petitioner is totally concocted. Even as per case of the prosecution, the alleged recovery from the petitioner is of 1600 loose tablets, allegedly containing some prohibited substance. However, as per the FSL report, the prohibited substance dyphenoxylate hydrochloride is reported to be found in the tablets. But as per the FSL report, the prohibited substance found per tablet is only 2.5 mg, which comes to be about 3.6 grams only; in the entire alleged recovered material. Hence, even as per the case of the prosecution, the alleged recovery from the petitioner is of less than the small quantity prescribed for the substance. Learned counsel has relied upon a judgment of this Court rendered in **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 the petitioner is in custody since 28.10.2018 and there is no other case against the petitioner.

On the other hand, learned counsel for the State, being assisted by HC Rajinder Kumar, submits that there has been huge recovery of 1600 tablets from the petitioner, which has been found to be containing the prohibited substance. However, it is not disputed that as per the FSL report, the quantity of prohibited substance found per tablet is only 2.5 mg; which comes to be less than even the small quantity prescribed for the substance. It is also not disputed that there is no other case against the petitioner and that the petitioner is in custody since 28.10.2018.

In view of the above, 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.

May 28, 2019
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(RAJBIR SEHRAWAT)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No