

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-9838-2019

Date of decision-07.03.2019

Raj Kumar @ Raju @ Raji

....Petitioner

Vs.

State of Punjab

...Respondent

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Vivek K.Thakur, Advocate for the petitioner.

Mr. V.G.Jauhar, Senior DAG, Punjab assisted by
HC Bagwan.

MANOJ BAJAJ, J.

Petitioner has filed this petition under Section 439 of the Code of Criminal Procedure for grant of regular bail in case FIR No.0165 dated 29.11.2018 registered under Section 22 of Narcotic Drugs and Psychotropic Substances Act, 1985 Act, at Police Station Kot Ise Khan, District Moga.

On 29.11.2018, when the Police party was on patrol duty, a bullet motor-cycle was seen coming from the side of village Mahal. The vehicle was stopped and after formalities, the search was conducted. A black colour polythene was found lying beneath the driver seat of motor-cycle and upon counting 40 strips containing 10 tablets each were recovered. Thereafter, the pillion rider of the vehicle, namely, Sukhwinder Singh @ Sukha was searched and 90 strips were recovered from him.

Learned counsel for the petitioner contends that the recovery from the petitioner is of 400 tablets which comes to 159.2 gram of tramadol.

According to him the quantity recovered from the petitioner is non-commercial in nature. He has further relied upon decisions of this Court passed in CRM-M-31965-2018 and CRM-M-3250-2019 wherein the recovery effected in a similar manner from two co-accused, the concession of bail was extended to the accused, by treating the quantity as non-commercial.

On the other hand, learned State counsel assisted by HC Bagwan opposed the bail application on the ground that collectively the recovered contraband would fall within the ambit of commercial quantity, however, it is not disputed that two separate recovery memo were prepared at the spot. It is also pointed out that the vehicle in question belongs to the petitioner.

Considering the above background and the fact that the petitioner is in judicial custody who is not required for any investigation; recovery effected is non-commercial, therefore, no useful purpose would be served by detaining the petitioner further who is young boy of 20 years old. Therefore, without meaning any expression on the merits of the case, the petition is allowed and the petitioner is ordered to be released on regular bail subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court concerned.

The petition is allowed.

(MANOJ BAJAJ)
JUDGE

07.03.2019
vanita

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No