

**S.No.212**

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

**CRM-M-13299 of 2019 (O&M)**

**Date of Decision:22.04.2019**

**Jai Sagar .....Petitioner**

**Vs.**

**State of Punjab .....Respondent**

**CORAM:- HON'BLE MR. JUSTICE RAJBIR SEHRAWAT**

Present:- Mr. Ravi Malhotra, Advocate  
for the petitioner.  
Mr. K.S. Aulakh, DAG, Punjab.

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**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.0128 dated 29.08.2017 registered under Section 22 of NDPS Act at Police Station Lambra, District Jalandhar Rural.

Learned counsel for the petitioner submits that the case against the petitioner is totally concocted. In fact, the petitioner was wrongly shown as intercepted by the Police party. For the same arrest, at the same time and place, two FIRs have been concocted by the Police of the same Police Station. One FIR is under Section 379-B, 392, 394, 148, 149 IPC, for allegedly possessing stolen mobile phones, whereas the another FIR has been concocted under NDPS Act, in which the present petition has been filed. It is further contended by the counsel that even as per the allegations in the FIR, the alleged recovery from the petitioner is 110 grams of intoxicant powder. However, as per FSL report, the actual quantity of the prohibited substance alprazolam found in the entire recovery is only 0.14% which comes to less than even the small quantity prescribed for this substance. Counsel relies upon the judgment of this Court rendered in

**CRM-M-35080 of 2018 – Rajvir Singh @ Raju v. State of Punjab**

decided on 21.08.2018. It is further contended that although the petitioner is in custody since 29.08.2017, yet, so far only one witness has been examined by the prosecution out of ten witnesses. This slackness is despite the fact that all the witnesses are police officials only. The petitioner is not required for any investigation purposes. It is also submitted that except the two cases mentioned above, which have been concocted by the Police on the same date, there is no other case against the petitioner.

On the other hand, learned counsel for the State, being instructed by ASI Kulwinder Singh, submits that recovery from the petitioner is 110 grams of intoxicant powder, which is commercial quantity. However, it is not disputed that as per the FSL report, the actual quantity found in the entire recovery is only 0.14%, which comes to less than even the small quantity prescribed for this substance. It is not disputed that the petitioner is in custody 29.08.2017 and that only one witness has been examined by the prosecution so far. It is also not disputed that except the two cases mentioned above, there is no other case against the petitioner.

In view of the above, but without commenting 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.

**April 22, 2019**  
**renu**

**( RAJBIR SEHRAWAT )**  
**JUDGE**

Whether Speaking/reasoned  
Whether Reportable

Yes/No  
Yes/No