

S.No.213

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

CRM-M-19846 of 2019(O&M)

Date of Decision:21.08.2019

Neeraj KumarPetitioner

Vs.

State of PunjabRespondent

CORAM:- HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present:- Mr. Vikram Preet Arora, Advocate
for the petitioner.
Mr. K.S. Aulakh, DAG, 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.0176 dated 02.09.2017 registered under Sections 22, 25 of NDPS Act, 1985 at Police Station Maur, District Bathinda.

It is contended by counsel for the petitioner that the case against the petitioner is totally concocted. The petitioner is not involved in the alleged crime at all. However, even if the case of the prosecution is taken as it is, then also the alleged recovery from the petitioner is of 20 bottles of cough syrup “Onerex” allegedly containing prohibited substance Codeine Phosphate. However, as per the FSL report, only 9.88 mg per 5 ml of the solution of Codeine has been detected in the recovered material. Therefore, in the entire alleged recovery from the petitioner, the total quantity of prohibited substance comes to be only 3.95 grams, which is only marginally higher 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 submitted

that there is no other case against the petitioner. Charge has been framed in the case. The case is at the stage of prosecution evidence. Therefore, the petitioner is not required for any investigation purposes. He deserves to be released on bail.

On the other hand, learned State Counsel, submits that heavy recovery of 20 bottles of prohibited substance, each containing 100 ml of the solution containing prohibited substance has been effected. However, it is not disputed that; as per the FSL report, only 3.95 grams of prohibited substance have been found in the entire recovery, which is only marginally higher than the small quantity prescribed for the substance. It is also not disputed that there is no other case against the petitioner and that the charge has already been framed in this case.

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.

August 21, 2019**renu****(RAJBIR SEHRAWAT)****JUDGE**

Whether Speaking/reasoned

Yes/No

Whether Reportable

Yes/No