

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

CRM-M-22251 of 2019 (O&M)
Date of decision: December 09, 2019

Mithu SinghPetitioner

Versus

State of HaryanaRespondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr.Virender Kumar, for the petitioner.
Mr. Arun Beniwal, DAG, Haryana.

MAHABIR SINGH SINDHU, J

Present petition has been filed under Section 439 Cr.P.C. seeking bail pending trial to the petitioner in case FIR No.178 dated 29.09.2018 under Section 22-C/61/85 of NDPS Act, 1985, (for short 'the Act') registered at Police Station Jakhal, District Fatehabad.

Brief facts of the case are that on 29.09.2018 when SI Devi Lal along with other police officials were present at Nadel Mod, then petitioner along with other co-accused were apprehended on suspicion for having narcotic substance. During search of both the accused, Tramadol and Alprazolam tablets were recovered from their possession and they were taken in custody.

Contentends that the petitioner is in custody since 29.09.2019 and after investigation report under Section 173 Cr.P.C. has already been submitted. Also contends that although charges were framed on 16.08.2019 but out of total 15 prosecution witnesses none has been examined till date. It is also the contention that alleged recovery of the contraband from the petitioner is allegedly

less then the commercial quantity. Again contended that there is no other criminal case pending against the petitioner.

Learned State counsel on instructions from ASI Mahavir has duly acknowledged the above factual position including the fact that the quantity of the contraband recovered from the petitioner is less than commercial in nature.

Heard both sides and perused the paper book.

Since the investigation is over; charges were already framed and none of the prosecution witness has been examined till date, thus, the rigor of Section 37 of the Act would not be attracted in this case.

As the petitioner has been in custody for the last 1 year and 2 months, his further incarceration would not serve any purpose.

In view of the above, the petition is allowed. Petitioner is ordered to be released on bail on his furnishing bail bonds/ surety bonds to the satisfaction of the CJM/ Duty Magistrate, concerned.

However, it is made clear that above observations may not be construed as an expression of opinion on the merit of the case pending before learned trial Court.

December 09, 2019
sanjay

(MAHABIR SINGH SINDHU)
JUDGE

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