

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-53722-2018

Date of Decision: 27.05.2019

Rajinder Singh @ Raja

.. Petitioner

Vs.

State of Punjab

..Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr. Amaninder Singh Sekhon, Advocate for the petitioner.
Ms. Monika Jalota, DAG, Punjab.

...

Inderjit Singh, J. (Oral)

Petitioner Rajinder Singh @ Raja has filed this petition under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail in case FIR No.97 dated 14.08.2015, registered at Police Station Bajakhana, District Faridkot, under Section 21 of the NDPS Act, 1985.

Notice of motion has been issued.

Learned State counsel appeared and contested the instant petition.

I have heard learned counsel for the petitioner as well as learned State counsel and gone through the record.

From the record, I find that in the present case, 115 grams intoxicant powder containing Alprazolam salt was recovered from the polythene bag of the present petitioner. More than 100 grams of the aforesaid salt falls in commercial quantity. Perusal of the record shows that there is nothing on the record as to how the weight of intoxicant powder was measured. Whether polythene bag was also weighed along with the powder? Whether it was weighed through the electronic scale or ordinary scale? It is noticed in so many cases that the Investigating Officers

intentionally or unintentionally do not give all these facts while conducting

proceedings under the NDPS case. If the recovery is marginally higher than the commercial quantity, then it is the duty of the Investigating Officer to make every effort to weigh the recovery on the electronic scale. Secondly, he should mention specifically that the weight of envelope or the packet etc. is not included in it. Thirdly, he should also mention the procedure in detail how it was measured to make out the case whether the recovery falls in commercial or non-commercial quantity. There should not be any doubt regarding the weight of the incriminating material.

A direction is given to States of Punjab, Haryana and U.T. Chandigarh to direct all concerned to take all these precautions at the time of weighing the contraband.

The petitioner is in custody for more than 10 months. He is not required for any investigation or interrogation purposes as he is in judicial custody. The trial of the case may take long time. No useful purpose will be served by keeping him in custody till the final disposal of the case.

Keeping in view the facts and circumstances of the present case as these particulars are not mentioned clearly and the recovery may fall in non-commercial quantity; without discussing the facts in minute detail and without expressing any opinion on the merits of the case, this criminal miscellaneous petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing personal bonds in the sum of ₹50,000/- with one surety in the like amount to the satisfaction of the trial Court/Duty Magistrate.

27.05.2019
Jasmine Kaur

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No