

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

**CRM-M No.30545 of 2019 (O&M)
DATE OF DECISION : 31st OCTOBER, 2019**

Gurmel Singh

.... Petitioner

Versus

State of Haryana

.... Respondent

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

* * * *

Present : Mr. Navneet Jindal, Advocate for the petitioner.

Mr. M. D. Sharma, Assistant Advocate General, Haryana.

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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.88 dated 25.04.2019 registered under Section 22B of NDPS Act, 1985 at Police Station Kalanwali, District Sirsa.

Learned counsel for the petitioner contends that the case against the petitioner is totally concocted. It is further submitted that even as per the case of the prosecution, the alleged recovery from the petitioner is of 900 tablets, containing prohibited substance Alprozolam and 60 tablets containing prohibited substance Tramadol Hydrochloride. Although the samples were sent to FSL, however, FSL report has not even specified the quantity of the prohibited substance found in the alleged recovered material. Therefore, there is nothing with the prosecution to get the petitioner convicted for any quantity as such. It is further contended that since the alleged tablets are manufactured drugs, therefore, in the absence of FSL report, even if the manufacturer's detail

as mentioned on the tablets, are taken in to consideration, then also the actual quantity of the prohibited substance found in the entire recovery of tablets containing Alprazolam is only 450 milligrams and the quantity of prohibited substance Tramadol Hydrochloride found in 60 tablets is 6 grams only. Both these quantities are less than even the small quantity prohibited for the respective substance. The counsel for the applicant-appellant has relied 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, to support his contention. It is further submitted that the petitioner is in custody since 25.04.2019. The challan has already been filed. There is no other case against the petitioner under the NDPS Act.

On the other hand, counsel for the State, being instructed by ASI Shamsher Singh, submits that huge recovery of prohibited substance has been effected from the petitioner. It is further submitted that the petitioner is having two more cases against him under the Arms Act. However, it is not disputed that the FSL report has not mentioned the quantity of the prohibited substance found in the recovery as such. The manufacturer detail, as mentioned in the FSL report, has also not been disputed by the State counsel. It is also not disputed that the petitioner is in custody since 25.04.2019 and that there is no other case against the petitioner under the NDPS Act.

In view the above, but without expressing any further opinion on the merits of the case, the present petition is allowed. The petitioner is ordered to be released on bail pending trial subject to his

furnishing bail bonds/surety to the satisfaction of the Trial Court/Duty
Magistrate, concerned.

31st OCTOBER, 2019
'raj'

(RAJBIR SEHRAWAT)
JUDGE

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