

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-M-36684 of 2019
Date of Decision: 03.12.2019

Narender @ Kali

....Petitioner

VERSUS

State of Haryana

....Respondent

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Balraj Gujjar, Advocate
for Mr. Shalender Mohan, Advocate
for the petitioner.

Ms. Dimple Jain, A.A.G. Haryana.

SURINDER GUPTA, J.(Oral)

The present petition has been filed under Section 439 Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No.370 dated 13.11.2017 registered for the offence punishable under Section 21 of Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station Narnaund, District Hisar.

Heard.

As per case of prosecution, 260 gms. of Smack was recovered from the petitioner, which was in a polythene bag. It was weighed on a computerized weighing scale.

Learned counsel for the petitioner submits that separate weight of the contraband was not taken and the police has also not ascertained the weight of polythene bag. The quantity more than 250 gms. falls in commercial quantity and there may be error of weighing scale or even separate weight of polythene bag was not taken.

Learned counsel for the petitioner further submits that

petitioner was allowed bail under Section 167 (2) Cr.P.C. due to non-filing of challan in time and that order has not been withdrawn or cancelled till date.

The petitioner was arrested in this case on 13.11.2017 and was allowed bail on 10.07.2018. Thereafter, on receipt of FSL report, he was again taken into custody.

As per submission of learned counsel for the petitioner, bail allowed to petitioner under Section 167 (2) Cr.P.C. has not been cancelled or withdrawn so far, as such, the present petition is allowed. Petitioner-Narender @ Kali is ordered to be released on regular bail on furnishing bail bond and surety bond to the satisfaction of concerned trial Court/Chief Judicial Magistrate/Duty Magistrate, subject to following terms:-

- (a) The petitioner shall comply with the conditions mentioned in Section 437(3) Cr.P.C.
- (b) In the event of his absence on any date of hearing, the benefit of bail allowed to the petitioner shall stand withdrawn. The trial Court shall be competent to cancel his bail bond and surety bond and proceed to procure his presence in accordance with law. In that eventuality the petitioner shall have to apply for bail afresh.
- (c) He shall not leave the country without the previous permission of the Court.

December 03, 2019
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(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No