

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

CRM-M-37378-2019(O&M)

Date of decision :04.12.2019

Harmanjit Singh

.....Petitioner

versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. P.S.Punia,, Advocate
for the petitioner.

Mr. Bhupender Beniwal, AAG, Punjab

ANIL KSHETARPAL, J. (ORAL)

Petitioner prays for grant of regular bail in a criminal case arising out from FIR No.75, dated 23.04.2017 registered under Sections 22/61/85 of the NDPS Act, at Police Station Sidhwan Bet, District Ludhiana (Rural).

As per the case of the prosecution, petitioner was found in possession of 100 gram intoxicant white powder Diphenoxylate Hydrochloride.

Learned counsel for the petitioner while referring to Annexure P-2, report of the Regional Testing Forensic Science Laboratory, Ludhiana, Punjab has submitted that actual contents of Diphenoxylate Hydrochloride is 1.76% in the powder. He, hence, submitted that if actual contents of the prohibited substance are calculated, it would come to less than the commercial quantity because as per schedule of the NDPS Act, commercial quantity starts from above 50 grams. Learned counsel has further submitted that petitioner has no criminal record and investigations are complete and challan has been filed.

On the other hand, learned counsel for the State has opposed the application for bail.

This court has considered the submissions.

The question as to whether the entire mixture containing neutral or non-psychotropic substance as well as narcotic substance present in such mixture is to be taken into counting for the purpose of determining the commercial quantity, is pending disposal before a larger bench of the Hon'ble Supreme court in the case of *Hira Singh and another vs. Union of India and another, (2017) 8 SCC 162.*

Without commenting on the merits and keeping in view the fact that the petitioner has already suffered incarceration for a period of about 6 months, petitioner is directed to be released on bail subject to furnishing of adequate surety to the satisfaction of the trial Court/Duty Magistrate.

Accordingly the petition is allowed with the aforesaid directions.

December 04, 2019
nt

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

: Yes/No
: Yes/No