

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

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**CRM-M No. 40398 of 2019
Date of decision : 25.11.2019**

Baljinder Singh @ Bawa

.....Petitioner

Vs.

State of Punjab

.....Respondent

Coram: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present : Mr. Ashish Aggarwal, Advocate, for the petitioner

Mr. Harbir Sandhu, AAG, Punjab

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. 45 dated 23.11.2018, registered under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act), at Police Station Kacha Pacca, District Tarn Taran.

It is contended by learned counsel for the petitioner that the petitioner has been wrongly convicted and sentenced by taking the case as a case of recovery of commercial quantity of contraband material. But even as per the case of the prosecution, recovery from the petitioner is of 763 intoxicated tablets, containing substance tramadol hydrochloride. However, as per the FSL report, the actual quantity of tramadol found in the entire recovery is 35.80 mg/per tablet, which is less than the commercial quantities prescribed for the respective substances under the NDPS Act. The counsel for the petitioner 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 contended that the applicant is in custody for more than five and a half months and out of 12 prosecution witnesses, no witness has been examined.

On the other hand, learned counsel for the State, being instructed by the police official, submits that a heavy recovery of prohibited substance was effected from the petitioner. However, the result of the FSL report has not been disputed by the State counsel. It is also not disputed that the petitioner is in custody for about five and a half months and no prosecution witness have been examined.

In view of 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.

(RAJBIR SEHRAWAT)
JUDGE

25.11.2019

Ashwani

Speaking/Reasoned	:	Yes/No
Reportable	:	Yes/No