

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

CRM-M-23798-2020

Date of decision: 3.9.2020

Gulshan**.....Petitioner.****vs.****State of Haryana****.....Respondent.****CORAM: - HON'BLE MR. JUSTICE SANJAY KUMAR**

Present: - Mr. G.C. Shahpuri, Advocate, for the petitioner.

Mr. Arun Beniwal, Deputy Advocate General, Haryana with
SI Surender Singh, Police Station City, Jagadhri,
District Yamuna Nagar.

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Sanjay Kumar, J. (ORAL)

The petitioner is the accused in FIR No. 562 dated 07.06.2020 on the file of Police Station City, Jagadhri, District Yamuna Nagar, registered under Sections 22 and 61 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, '*the Act of 1985*'). By way of this petition filed under Section 439 Cr.P.C., he seeks grant of regular bail.

The petitioner was allegedly apprehended in possession of 288 capsules in two boxes; 52 capsules in one box; 48 capsules (blue color) in one box; and 105 capsules (coffee color) in another box. According to the prosecution, the Drugs Control Officer opined that these capsules were *Parvon Spas Plus capsules, containing Tramadol Hydrochloride, Simplex C capsules, containing Tramadol Hydrochloride, and Spasmoproxyvon Plus.*

The total weight of the capsules was stated to be 319.12 gms. However, it is an admitted fact that the Forensic Science Laboratory is yet to furnish a report as to the exact nature and character of the seized drugs.

The petitioner has been in custody since 7.6.2020. In the absence of the FSL report, it cannot be stated at this stage as to whether the seized drugs were in excess of the commercial quantity prescribed under *the Act of 1985*. Despite the matter being adjourned to enable the State to expedite the procuring of the FSL report, Mr. Arun Beniwal, learned Deputy Advocate General, Haryana, states that the report has not been furnished and seeks more time.

In the given circumstances, as the State is not in a position to produce the FSL report with regard to the nature and character of the seized drugs, Section 37 of *the Act of 1985* cannot be pressed into service at this stage. The petitioner would therefore be entitled to grant of relief pending the determination of the nature and character of the seized drugs.

The petition is accordingly allowed to the extent of granting interim bail to the petitioner in FIR No. 562 dated 07.06.2020 on the file of Police Station City Jagadhri, District Yamuna Nagar, upon his furnishing a personal bond for a sum of ₹ 50,000/- along with two sureties for a like sum each to the satisfaction of the Illaqa/Duty Magistrate concerned.

In the event the FSL report certifies that the seized drugs are in excess of the commercial quantities prescribed under *the Act of 1985*, this order shall stand withdrawn automatically without further reference to this Court and the petitioner shall thereupon surrender and take steps for securing regular bail afresh.

The petitioner shall also desist from offering any inducement, threat or promise to any person connected with the case.

(SANJAY KUMAR)
JUDGE

3.9.2020

preeti

whether speaking/non speaking	yes/no
whether reportable/non reportable	yes/no