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

**CRM-M No.54384 of 2019
Date of Decision: 07.01.2020**

Saurabh Sabharwal @ Monu

.....Petitioner

Vs

State of Punjab

.....Respondent

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. B.K. Mehta, Advocate
for the petitioner.

Mr. J.S. Ghumman, DAG, Punjab.

RAJ MOHAN SINGH, J.(Oral)

Petitioner seeks grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.161 dated 11.09.2019, registered under Section 21 of NDPS Act, 1985, Police Station Division No.2, Ludhiana.

One Kanwaljit Singh was arrested and during interrogation, alleged complicity of the petitioner came to fore. Kanwaljit Singh confessed that he had brought intoxicating tablets and capsules from his friend Saurabh Sabharwal @ Monu i.e. the petitioner. 21 strips of Alprazolam and 20 strips of

capsules Pervorin Spas were recovered from Kanwaljit Singh. 21 strips of salt tramadol hydrochloride tablets clovidol and capsules 92 strips of salt pervorin spas were allegedly recovered from the petitioner. Initial claim was made that the contraband recovered from the petitioner was having batch number, but there is no reference made by the Judicial Magistrate First Class, Ludhiana in the order dated 12.09.2010, when the case property was produced before the Court for drawing representative samples.

Perusal of the FSL report would show that there is no reference of batch number in the FSL report.

Learned State counsel on instructions from ASI Gurmail Singh states that documents showing batch number were duly affixed with form No.29-M and the same is a *bona fide* omission. As per FSL report, only 2 strips and 2 capsules of strips of intoxicants were subjected to chemical analysis. 19 strips of tablets and 90 strips of capsules were retained as remaining case property. In this manner, the entire bulk has not been examined by the analyst.

In **Gaunter Edwin Kircher Vs. State of Goa, Secretariat, Panaji, Goa, 1993 AIR (SC) 1456**, it has been held that the entire bulk or sufficient quantity by way of sampling has to be sent for chemical analysis. The aforesaid view was

followed by Division Bench of this Court in **State of Punjab Vs. Dharam Singh, 2010(3) RCR (Criminal) 94 (DB), CRM No.23854 of 2016** in **CRA-S No.145-SB of 2016** titled **Baj Singh Vs. State of Punjab** decided on 20.09.2016 and in many other cases.

It would be debatable as to the quantity falling under commercial quantity.

At this stage, without meaning anything on merits of the case, it would just and appropriate to release the petitioner on regular bail subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of trial Court/Duty Magistrate.

Nothing expressed hereinabove would be construed to be an expression of any opinion on merits of the case.

January 07, 2020.

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(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned Yes/No

Whether reportable Yes/No