

229

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

**CRM-M No.23238 of 2021
Date of Decision: 29.06.2021**

BHUPINDER SINGH

.....Petitioner

Vs

STATE OF PUNJAB

.....Respondent

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

Present: Mr. Rajat Garg, Advocate
for the petitioner.

Mr. Amar Ashok Pathak, Addl. A.G., Punjab.

RAJ MOHAN SINGH, J.(Oral)

The case has been taken up for hearing through video conferencing.

Petitioner seeks grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.0019 dated 27.02.2021, registered under Sections 22/61/85 of the NDPS Act at Police Station Kheri Gandian, District Patiala.

As per prosecution story the alleged recovery of 13 strips each containing 60 tablets i.e. 780 tablets in the strip bearing batch No.03L20070 was effected from the petitioner.

The entire bulk was sent for chemical analysis. As per FSL

report, salt of Diphenoxylate Hydrochloride was detected and the average weight of the one tablet was found to be 63 mg. In this manner total tablets i.e. 780 were to be multiplied by 63 mg in order to ascertain total weight of the contraband. On such application, the total weight was found to be of 49.140 mg, which falls under non-commercial category as per Entry No.44 of the Schedule/table.

Learned counsel for the petitioner submitted that even otherwise in case of personal search of the petitioner, the alleged recovery effected from the conductor is not to be counted in the credit of the petitioner. Separate memo of recoveries have been prepared from personal search of the petitioner. Petitioner is in custody since 27.02.2021.

Learned State counsel however opposed the bail on the ground that 780 tablets were recovered from the petitioner and 1200 tablets were recovered from the conductor of the vehicle. The total contraband comes out to be 1980 tablets.

It would be debatable as to whether the recovery effected from the personal search of the conductor is to the disadvantage of the petitioner while assessing the total contraband recovered from personal search of the petitioner.

In view of aforesaid factual position complicity of the petitioner viz-a-viz. the recovery effected from the conductor

would remain debatable. Quantity upto 50 grams of Diphenoxylate Hydrochloride is non-commercial in nature.

At this stage, without adverting to the merits of the case, I deem it appropriate to enlarge the petitioner on regular bail.

In view of above, petition is allowed. Petitioner is ordered to be released on bail, subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of the trial Court/concerned Duty Magistrate.

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

June 29, 2021

Atik

Whether speaking/reasoned

Whether reportable

**(RAJ MOHAN SINGH)
JUDGE**

Yes/No

Yes/No