

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

CRM-M-51443 of 2021

DECIDED ON: 14th December, 2021

Dev @ Pintu

.....PETITIONER

VERSUS

State of Haryana

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN.

Present: Mr. Lalit Yadav, Advocate for petitioner.

Mr. Karan Garg, AAG Haryana.

AVNEESH JHINGAN, J (ORAL)

This is third petition under Section 439 Cr.P.C. filed seeking regular bail in case of FIR No. 813 dated 21.12.2020, under Section 21/61/85 NDPS Act, registered at Police Station Palla, District Faridabad.

The first bail petition was dismissed as withdrawn on 9.7.2021 with liberty to revive the prayer at a later stage. The second bail petition was dismissed on merits on 9.11.2021. It was taken note of the fact that the recovery from the petitioner is of commercial quantity and the prayer made for regular bail falls within teeth of Section 37 of the NDPS Act.

Brief facts of the case are that police party acting on a secret information that Dev @ Pintu (petitioner) is indulged in sale and purchase of intoxicating substances, apprehended him. From his bag, one polythene containing smack weighing 264 grams and one paper pouch containing smack weighing 38 grams were recovered. Recovery of Rs. 48,220/- allegedly to be sale consideration of drugs was also effected from him.

Learned counsel for the petitioner submits that there is change in circumstance as FSL report was received and the recovery from the petitioner is of non-commercial quantity.

Learned State counsel opposes the prayer for grant of bail. He submits that the bail petition has been filed without any change in circumstance. He however refutes the submissions made by learned counsel for petitioner that the recovery was of non-commercial quantity. The contention is that learned counsel for the petitioner is relying upon the actual drug content in the recovery made of 302 grams, he relies upon the decision of the Supreme Court in ***Hira Singh and another Versus Union of India and another, 2020 AIR (Supreme Court) 3255.***

The contention raised by learned counsel for petitioner is contrary to the law laid down by the Supreme Court in ***Hira Singh's case (supra)***. There is no change in circumstance, prima-facie, the recovery made from petitioner is of commercial quantity. In view of Section 37 of the NDPS Act, no case is made out for grant of bail.

Dismissed.

It is clarified that observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

14th December, 2021

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**(AVNEESH JHINGAN)
JUDGE**

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>Yes</i>