

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

205

**CRM-M-43384-2019 (O&M)
Date of Decision: 01.10.2021**

Mahindro and others

...Petitioners

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Ms. Shivya Sehgal, Advocate, for the petitioners.

Mr. Harbir Sandhu, AAG, Punjab.

(proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J. (Oral)

1. The petitioners have approached this Court seeking grant of regular bail in terms of provision of Section 439 Cr.P.C. in respect of a case registered against them vide FIR No.264 dated 04.11.2018 at Police Station Moti Nagar, District Ludhiana, under Sections 22/29/61 of the NDPS Act, wherein the allegations are broadly to the effect that they were found in possession of 1350 capsules of 'Alprazolam'.
2. Vide order dated 30.11.2018 (Annexure P-2) passed by learned Special Court, Ludhiana, the petitioners Mahindro and Pooja were ordered to be released on interim bail till the receipt of report of Chemical Examiner. It was further directed therein that in case the contraband turns out to 'commercial quantity' on receipt of the report of Chemical Examiner, they shall surrender before the trial Court.

Similarly, the accused/petitioner Rajan was also ordered to be released on interim bail vide identical order dated 30.11.2018 (Annexure P-3) passed by Special Court, Ludhiana.

3. As per report dated 27.12.2018 (Annexure P-4) of FSL , the recovered contraband was found to contain 'Alprazolam' and the average weight of each of the tablet was found to be 110 mg. In other words the recovered contraband was found to fall within the category of non-commercial quantity.
4. The petitioners without surrendering before the trial Court moved an application for grant of regular bail, which was dismissed by the learned Special Court, Ludhiana vide order dated 11.09.2019 (Annexure P-5).
5. On the last date of hearing, learned counsel representing the petitioners had sought time to verify as to whether the petitioners have surrendered before the trial Court or not. It has been informed that the petitioners have not surrendered so far. The said fact has also been confirmed by the learned State counsel upon instructions from ASI Hazoor Singh, Naib Court.
6. The aforesaid conduct of the petitioners in not having surrendered, despite the fact that there was specific direction to do so in orders dated 30.11.2018 (Annexure P-2 and P-3) vide which they were granted interim bail, virtually amounts to violation of conditions of interim bail.
7. As such, the provisions of Section 439 Cr.P.C., when the petitioners have already violated the conditions of the interim bail granted earlier and have chosen not to surrender and are presently not in custody,

cannot be availed of by the petitioners. The petition is *sans* merit and is hereby dismissed.

01.10.2021

(GURVINDER SINGH GILL)

VY

JUDGE

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No