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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-15423-2023
Date of decision:-11.02.2025

RUPESH KUMAR @ VICKY @ GHORA
... Petitioner

Versus

STATE OF PUNJAB
... Respondent

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY.

Present:- Mr. J.S,. Thakur, Advocate for the petitioner.
Mr. Ankit Grewal, DAG, Punjab.

SANJIV BERRY, J. (ORAL)

The instant petition has been preferred by the petitioner under Section 439 of the Code of Criminal Procedure for grant of regular bail in the following case:-

FIR No.	Dated	Sections	Police Station
123	09.07.2022	21, 22 of NDPS Act	Bhargo Camp, District Jalandhar Commissionerate

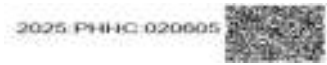
2. Brief facts of the case are that during patrolling/search on 09.07.2022, one young man was seen on foot, who on seeing police got perplexed and took out a black colour polythene bag from his trouser and threw it. Police apprehended him and on checking 45 grams of heroin and 262 grams of intoxicant powder was recovered and FIR was registered.



3. It is *inter alia* contended by learned counsel for the petitioner that the petitioner is innocent and has been falsely implicated in the present case. He contends that the petitioner has no concern whatsoever with the alleged recovery and is in custody since 09.07.2022 and after completion of investigation challan has already been presented in Court, and conclusion of trial will take long time. Hence prayed for grant of regular bail to the petitioner.

4. *Per contra*, learned State counsel referring to the reply submitted by the State has opposed the bail petition by arguing that petitioner was arrested on the spot and 45 gram of heroin and 262 grams of intoxicant powder was recovered from the petitioner and as per FSL report the intoxicant powder contained salt Alprazolam to the extent of 0.24% which falls within the purview of commercial quantity and attracts Section 37 of the NDPS Act, as such, the petitioner is not entitled to the concession of bail. Hence prayed for dismissal of the regular bail petition.

5. After considering the rival contentions and perusing the record, it transpires that during search, police had apprehended the petitioner and recovered 45 gram of heroin and intoxicant powder weighing 262 grams and as per FSL report the said intoxicant powder contained salt "Alprazolam" to the extent of 0.24% which falls within the purview of 'commercial quantity' and attracts bar under Section 37 of the NDPS Act. Considering the nature and gravity of the offence, and also the fact that the recovered contraband falls within the purview of 'commercial quantity', attracting bar under Section 37 of the NDPS Act, no case is made out in favour of the petitioner



for grant of regular bail at this stage, as a consequence, the petition is hereby dismissed.

6. Any observation made above shall not be construed as opinion of this Court on the merits of the case.

(SANJIV BERRY)
JUDGE

11.02.2025
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i)	Whether speaking/reasoned?	Yes/No
ii)	Whether reportable?	Yes/No