

Punjab-Haryana High Court

Charanjit Singh vs State Of Punjab on 27 March, 2009

CRM No. M-33591 of 2008

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IN THE HIGH COURT FOR THE STATES OF PUNJAB &  
HARYANA AT CHANDIGARH.

CRM No. M-33591 of 2008 (O&M)

Date of decision: 27.3.2009

Charanjit Singh

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. B.S. Bhalla, Advocate, for the petitioner.

Rajan Gupta, J.

The petitioner has preferred this petition for grant of regular bail in a case registered against him under Section 22/61/85 of N.D.P.S. Act, vide FIR No.88 dated 15th September, 2007 at Police Station Nihal Singh Wala, District Moga, on the ground that no offence is made out against him under the N.D.P.S. Act. Offence, if any, would be made out under the Drugs and Cosmetic Act. This apart, the petitioner has been in custody since 15th September, 2007. He thus deserves to be enlarged on bail during the pendency of trial.

Learned counsel for the State has, however, vehemently opposed the prayer made by counsel for the petitioner. He has referred to Entry 44 of the Schedule-I of the N.D.P.S. Act and contended that any person in possession of Diphenoxylate in excess of 50 grams can be charged under the NDPS Act and the same being commercial quantity, he would not be entitled to be enlarged on bail. According to the learned counsel, the present petitioner was found in possession 40000 Memolit tablets which would be formulated medicines having the salt of Diphenoxylate Hydrochloride. The same being commercial quantity, Section 37 of the NDPS Act would be attracted to the case. Apart from this, learned counsel has emphasized that the prosecution has to examine only 13 witnesses, out of whom four have already been examined. It is unlikely that the trial would be prolonged.

After hearing the counsel for the parties, I am of the considered view that the petitioner is not entitled to be enlarged on bail. He was found in possession of 40,000 Memolit tablets in which salt of Diphenoxylate Hydrochloride would be 96 grams. The same being commercial quantity, Section 37 of the NDPS Act would be attracted to this case.

Under the circumstances, this petition is devoid of merit. The same is hereby dismissed.

(RAJAN GUPTA) JUDGE March 27, 2009 'rajpal'