

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M No. 13809 of 2014 (O&M)

Date of decision : 18.11.2015

...

Sukhdev Singh @ Sukha

.....Petitioner

vs.

State of Punjab

.....Respondent

**Coram: Hon'ble Mr. Justice Surya Kant
Hon'ble Mr. Justice P.B. Bajanthri**

Present: Mr. V.K. Gupta, Advocate for the petitioner.

Ms. Reeta Kohli, Additional Advocate General,
Punjab with Mr. Hanspal Virk, AAG, Punjab.

...

1. *Whether Reporters of local papers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not?*
3. *Whether the judgment should be reported in the Digest?*

P.B. Bajanthri, J.

Petitioner – Sukhdev Singh @ Sukha seeks regular bail in case FIR No. 129 dated 19.9.2013, under Sections 21/22/25/27A/29/61/85 of the Narcotics Drugs and Psychotropic Substances Act, 1985 (hereinafter, for short “NDPS Act”) and Sections 420, 467, 468, 471, 120-B IPC, registered at Police Station Division No. 6, Ludhiana, District Ludhiana.

(2) As per the allegations contained in the FIR, one ASI Kashmir Singh headed the police party, was patrolling near Cheema

Chowk, Ludhiana. They stated to have received a secret information that Nitin Goyal s/o Pawan Goyal and Pawan Goyal s/o Ruldu Ram, who were already involved in drug-trafficking, have opened Pharmaceutical Companies known as (i) H.L. Medicines; (ii) Shri Krishna Agencies and (iii) Atlas Pharmaceuticals alongwith their other partners in Ludhiana. Another person, namely, Deepak Soni has also joined hands with them and has set up a Pharmaceutical establishment known as B.G. Pharma at Pindi Estate, Ludhiana and all of them in connivance with each other are dealing in intoxicant medicines like tablets, capsules, syrups, injections and other intoxicant powders without bills, fake bills and by preparing forged documents and by way of conspiring in huge quantities to various godowns and supply from there to Pindi Street, Ludhiana and other areas of Punjab to their customers without bills or fake bills with the help of transporters.

(3) Pursuant to secret information, FIR was registered and raids were conducted, whereupon 8,65,000 intoxicant capsules, 1,34,50,000 intoxicant tablets, 12000 intoxicant injections and 1400 intoxicant small bottles of syrup were recovered.

(4) Admittedly, the petitioner's name is not reflected in the FIR. During the investigation, Investigation Officer came to know that petitioner – Sukhdev Singh @ Sukha used to have conversation with the accused Pawan Goyal and Nitin Goyal on his mobile phone. On suspicion, petitioner Sukhdev Singh @ Sukha was arrested on 15.10.2013. Based on call details with the accused Pawan Goyal and

Nitin Goyal, on 18.10.2013, the petitioner was interrogated by the Investigating Officer. The petitioner – Sukhdev Singh @ Sukha gave disclosure statement under Section 27 of the Evidence Act and got recovered intoxicant drugs i.e. 26 injections of Buprenorphine 2 ml each from his house.

(5) The petitioner is in custody since 15.10.2013. There is no other case registered against him under the NDPS Act.

(6) The petitioner relied upon Rule 66 of the Narcotic Drugs and Psychotropic Substances Rules, 1985, (hereinafter, for short 'the NDPS Rules) to contend that even without any medical prescription, 100 doses of such like psychotropic substances could be retained by him.

(7) Learned counsel for the State opposed the plea of the petitioner stating that petitioner is not entitled to bail on the ground that 26 injections of Buprenorphine, 2 ml each were recovered from his house. This quantity of intoxicant drug falls under the commercial quantity.

(8) Having heard learned counsel for the parties, it is relevant to take note of Rule 66 of the NDPS Rules, for the purpose of determining whether recovery of 26 injections of Buprenorphine, of 2 ml each is commercial quantity or not. Rule 66 of the NDPS Rules reads as follows:-

“66. Possession, etc. of psychotropic substances.

(1) No person shall possess any psychotropic substance for any of the purpose covered by the

1945 **Rules**, unless he is lawfully authorized to possess such substance for any of the said purposes under these **Rules**.

(2) Notwithstanding anything contained in sub-rule (1), any research institution, or a hospital or dispensary maintained or supported by Government or local body or by charity or voluntary subscription, which is not authorized to possess any psychotropic substance under the 1945**Rules**, or any person who is not so authorized under the 1945 **Rules**, may possess a reasonable quantity of such substance as may be necessary for their genuine scientific requirements or genuine medical requirements, or both for such period as is deemed necessary by the said research institution or, as the case may be, the said hospital or dispensary or person :

Provided that where such psychotropic substance is in possession of an individual for his personal medical use the quantity thereof shall not exceed one hundred dosage units at a time:

Provided further that an individual may possess the quantity of exceeding one hundred dosage units at a time but not exceeding three hundred dosage units at a time for his personal long term medical use if

specifically prescribed by a Registered Medical Practitioner. (3) The research institution, hospital and dispensary referred to in sub-rule (2) shall maintain proper accounts and records in relation to the purchase and consumption of the psychotropic substance in their possession.”

(9) It thus appears that petitioner's case does not come under the purview of the above provision, to make out a case of 'commercial quantity'. Therefore, taking into consideration the total custody period of the petitioner; his past antecedents and the legal submission based upon Rule 66 *ibid*, but without expressing any final opinion in relation thereto, we are satisfied that no useful purpose shall be served by keeping the petitioner behind the bars and as such he deserves to be granted the concession of regular bail.

(10) Accordingly, this petition is allowed and the petitioner is directed to be released on regular bail to the satisfaction of the Chief Judicial Magistrate, Ludhiana.

(**Surya Kant**)
Judge

(**P.B. Bajanthri**)
Judge

November 18, 2015.
chugh