

CRM-M-14934-2017

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

CRM-M-14934-2017

Date of Decision: 02.06.2017

Joginder Singh

... Petitioner

Versus

State of U.T. Chandigarh

... Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr. Raj Kumar Gupta, Advocate,
for the petitioner.

Mr. Parveen Chauhan, Standing Counsel,
for U.T. Chandigarh.

INDERJIT SINGH, J.

Petitioner-Joginder Singh has filed this petition under Section 439 Cr.P.C. for grant of regular bail in case FIR No339 dated 08.11.2016, registered at Police Station Sector 39, Chandigarh, under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for brevity, 'NDPS Act, 1985').

Notice of motion was issued in this case. Learned counsel for the respondent put in appearance on behalf of the respondent-State and contested this petition.

I have heard learned counsel for the petitioner as well as learned Standing counsel for U.T. Chandigarh and have gone through the record.

CRM-M-14934-2017

From the record, I find that 73 injections of Buprenorphine have been recovered from the present petitioner. Admittedly, the aforesaid recovery falls in commercial quantity and Section 37 of the NDPS Act, 1985 bars the grant of bail to the accused in case of commercial quantity.

Learned counsel for the petitioner only argued that Rule 66 of the Narcotic Drugs and Psychotropic Substances Rules, 1985 (for short 'NDPS Rules 1985') provides 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 and, therefore, the petitioner has not committed any offence.

On this argument, I find that Section 8 of the NDPS Act, 1985 provides that no person shall produce, manufacture, possesses, sell, purchase, transport etc. any narcotic drug or psychotropic substance except for medical or scientific purposes and in the manner and to the extent provided by the provisions of this Act or the rules or orders made thereunder etc.

Rule 66 of the NDPS Rules, 1985 provides as under:

“66. Possession, etc., of psychotropic substances:-(1) *No person shall possess any psychotropic substance for any of the purposes covered by the 1945 Rules, unless he is lawfully authorised 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 authorised to possess any psychotropic substance under*

CRM-M-14934-2017

the 1945 Rules, or any person who is not so authorised 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.”

From the perusal of Rule 66 of the NDPS Rules, 1985, it is clear 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, otherwise possession of psychotropic substance cannot be held for the personal medical use. It is also clear from second proviso that an individual may possess upto three hundred dosage units at a time for his personal long term medical use if specifically prescribed by a Registered Medical Practitioner. It means that if the

Registered Medical Practitioner specifically prescribes that any dosage is

CRM-M-14934-2017

required for long time medical use, then an individual can keep three hundred units of the same. In no way, this provision can be interpreted that without the prescription of Registered Medical Practitioner, the petitioner can possess any psychotropic substance. Rule 66 of the NDPS Rules, 1985 is to be read with the main provisions of the NDPS Act, 1985, especially Section 8 of the NDPS Act, 1985. At the time of recovery, the accused has not shown any prescription to keep the aforesaid injections in his possession. The petitioner has also to show that the aforesaid injections are for his personal use and he is suffering from such type of disease for which injections of Buprenorphine have been prescribed and the same are necessary for the treatment of that disease. He himself cannot say without any medical record and prescription that injections of Buprenorphine are for his personal medical use. Therefore, in no way, it can be held at this stage that no offence has been committed by the petitioner by keeping 73 injections of Buprenorphine. Moreover, it is the defence of the petitioner which is to be proved during trial by producing defence evidence.

Therefore, from the above, I do not find any ground to grant the benefit of regular bail to the petitioner. Finding no merit in the present petition, the same is dismissed.

02.06.2017

parveen kumar

**(INDERJIT SINGH)
JUDGE**

Note:	Whether speaking/reasoned	:	Yes
	Whether reportable	:	Yes