

217

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

**CRM-M No.17410 of 2017
Date of Decision: 26.05.2017**

Madan Lal

.....Petitioner

Vs

State of Punjab

.....Respondent

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Aditya Jain, Advocate
for the petitioner.

Mr. Shilesh Gupta, Addl, AG, Punjab.

RAJ MOHAN SINGH, J.(Oral)

Petitioner seeks grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.111 dated 05.08.2016 registered under Sections 21/61/85 of the NDPS Act at Police Station, Maksoodan, District Jalandhar.

14 intoxicant injections were allegedly recovered from the petitioner, which were without any label. The recovery was effected from the pocket of the petitioner. On chemical analysis, the contraband was found to be containing Buprenorphine Hydrochloride. As per FSL report, the total quantity of contraband was shown to be 28 ML (0.26 MG per ML).

The controversy with regard to Buprenorphine at serial No.169 of the notification/Schedule of the NDPS Act (for short 'the Act'), whether would be a psychotropic substance or not, will be a debatable issue in the light of conflicting opinions.

In **Kismat Singh Vs. State of Punjab, 2012(2) RCR (Criminal) 329** and **Ajaib Singh Singh Vs. State of Punjab, 2012(2) RCR (Criminal) 330,** it has been opined that Buprenorphine falls under Drugs and Cosmetics Act and the salt has not been included in the Schedule I of the NDPS rules, whereas as per **Dilip Kumar Virvani and others Vs. State of Chhattisgarh, 2014(35) RCR (Criminal) 329,** Buprenorphine Hydrochloride is a psychotropic substance within the meaning of Section 2(ixia) of the Act.

Looking to the controversy involved herein, it would be debatable as to the trial of the contraband under the NDPS Act. In view of FSL report, weight of the total contraband would remain debatable as no density of liquid contraband has been shown.

In view of above, without commenting anything on the merits of the case, petitioner is directed to be released on regular bail subject to his furnishing adequate bail bonds and surety bonds to the satisfaction of the trial Court/Duty

Magistrate.

Nothing expressed hereinabove would be construed to be an expression of any opinion on merits of the case.

Disposed of.

May 26, 2017.

Prince

**(RAJ MOHAN SINGH)
JUDGE**