

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

**CRM No.M-28773 of 2017 (O&M)
Date of Decision: September 26, 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.

INDERJIT SINGH, J.

Petitioner has filed this second petition under Section 439 Cr.P.C. for grant of regular bail in case FIR No.339 dated 08.11.2016 under Section 22 of the NDPS Act, registered at Police Station Sector-39, Chandigarh.

I have heard learned counsel for the petitioner and have gone through the record.

From the record, first of all, I find that this is second regular bail application filed by the petitioner and the first bail application had already been dismissed by this Court vide order dated 02.06.2017 by discussing the arguments raised by learned counsel for the petitioner. Learned counsel for the petitioner now relied upon the law laid down by the Hon'ble Supreme Court in Sajan Abraham vs. State of Kerala, 2004(2) RCR

(Criminal) 137. I have gone through the above-cited judgment and the same

having distinguished facts, will not apply in the present case. Firstly, in that case, the Hon'ble Apex Court has held that recovery on the basis of percentage of sale is small quantity but now, after the notification of 2009, the total quantity is to be taken for the purpose of considering, whether the recovery falls in commercial or non-commercial category. Admittedly, the recovery from the present petitioner i.e. 73 Injections of Buprenorphine falls under commercial category. Secondly, in para No.9 of *Sajan Abraham's case (supra)*, it is held that there is evidence on record which indicates that the appellant used the said drug and this is obvious from the deposition of the Investigating Officer, PW-3 as well as the deposition of his mother, DW-1. Moreover, three syringes were also recovered from the appellant which also is indicative of the fact that the psychotropic substance recovered from him was for his personal consumption and not for trading purposes.

In the present case, at this stage, there is nothing to show that the recovery from the present petitioner is for personal purposes. No medical record has been produced to show that the recovered drug has been prescribed nor there is anything to show, from which illness, the petitioner is suffering for which the recovered injections are required for personal use. Therefore, the judgment cited above by learned counsel for the petitioner is not applicable in the present case. In no way, at this stage, it can be held that 73 injections of Buprenorphine are for the personal use for medical purposes.

The argument of learned counsel for the petitioner that petitioner can keep 100 dosages of that substance, without showing that psychotropic substance recovered from the possession of the petitioner is

for medical purpose, has no merit. It means that a person can keep/possess 100 dosages of each of the psychotropic substance which falls in the NDPS Act without any medical prescription or without showing the fact that those have been kept for medical purposes and for personal use.

In view of the above discussion, I do not find it a fit case where petitioner is entitled to benefit of regular bail.

Therefore, finding no merit in the present petition, the same is dismissed.

September 26, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No