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

**CRM-M No.33236 of 2016 (O&M)
Date of Decision: 19.01.2017**

GURDEV SINGH

.....Petitioner

Vs

STATE OF PUNJAB

.....Respondent

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

Present: Mr. Arshdeep Singh Brar, Advocate
for the petitioner.

Mr. P.S. Ghuman, Addl. A.G., Punjab.

RAJ MOHAN SINGH, J.(Oral)

Petitioner seeks grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.30 dated 30.03.2016, registered under Section 22 of the NDPS Act at Police Station Kot Isah Khan, District Moga.

As per prosecution case, FORIDOL tablets, ALMAX tablets, BUPROEX tablets, TRADOL tablets and TRIESR tablets were recovered from the petitioner. Foridol tablets contain 'Tramadol Hydrochloride' and 'Domperidone', therefore, it does not fall under the ambit of psychotropic substance. 300 tablets of Almax were allegedly recovered. Each tablet was of 140 mg

in weight, therefore 42000 mg i.e. 42 gms. of Almax tablets were allegedly recovered. The recovery of Almax tablets was less than the commercial quantity. Buprex tablets on being weighed were found to be 99 gms.

The controversy with regard to Buprenorphine at serial number 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.

This Court in the case of **Kismat Singh vs. State of Punjab, 2012(2) RCR (Criminal) 329** and **Ajaib Singh vs. State of Punjab, 2012(2) RCR (Criminal) 330** opined that the aforesaid Buprenorphine falls under Drugs and Cosmetics Act, 1940 and the salt has not been included in the Schedule I of the NDPS Rules.

Learned State counsel relied upon **Dilip Kumar Virvani and others vs. State of Chhattisgarh, 2014(35) RCR (Criminal) 329** and contended that 'Buprenorphine Hydrochloride' is a psychotropic substance within the meaning of Section 2(ixia) of the Act.

Learned counsel for the petitioner further contended that Paradol and Triesr tablets do not come under the ambit of the Act. This assertion of the learned counsel has not been

countered at this stage.

Looking to the controversy being on arguable note, I am of the view that at this stage, without meaning anything on ultimate merits of the case, petitioner can be enlarged on bail.

In view of above, petition is allowed. Petitioner is ordered to be enlarged on bail, subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of the trial Court.

January 19, 2017.

Atik

Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No