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

**CRM-M No.11215 of 2018
Date of Decision: 22.03.2018**

**Bhinder Dass
Vs**

.....Petitioner

State of Punjab

.....Respondent

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

Present: Mr. Nikhil Sharma , Advocate
for the petitioner.

Mr. Hittan Nehra, 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.112 dated 13.08.2017 registered under Section 22 of NDPS Act at Police Station Sirhind, District Fatehgarh Sahib.

As per allegations in the FIR, 12 injections of Buprenorphine IP 2 ML and 200 tablets of Avil were allegedly recovered from the petitioner. FSL report has already been received.

The controversy with regard to Buprenorphine at serial No.169 of the notification/Schedule of the NDPS Act, would be debatable as to whether it is a psychotropic substance or not.

As per proviso to Rule 66 of NDPS Act, 1985, an individual can possess 100 doses of Buprenorphine Hydrochloride.

In view of ratio laid down in **Ajaib Singh Vs. State of Punjab, 2012(2) RCR (Criminal) 330**, Buprenorphine is not mentioned in Schedule I of the NDPS Rules, therefore, provision in terms of Section 8 of the Act would have no application. In **Kismat Singh Vs. State of Punjab, 2012(2) RCR (Criminal) 329**, the same proposition was held. In view of opinion to the contrary given by Chattishgarh High Court in **Dilip Kumar Virvani and others Vs. State of Chattishgarh, 2014(35) RCR (Criminal) 329**, it would be debatable as to the contraband falling under the ambit of narcotic substance or otherwise.

In view of above, without meaning anything on the merits of the case, I deem it appropriate to enlarge the petitioner on regular bail subject to his furnishing adequate bail bonds and surety bonds to the satisfaction of the trial Court.

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

March 22, 2018.

Prince

Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No