

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No. 12728 of 2018
Date of Decision: 02.04.2018

Shashi Kumar

.....Petitioner

Vs

State of Haryana

.....Respondent

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

Present: Mr. S.S. Gill , Advocate
for the petitioner.

Mr. Satish Saini, DAG, Haryana.

RAJ MOHAN SINGH, J.(Oral)

Petitioner seeks grant of regular bail under Section 439 Cr.P.C. in case bearing FIR No.446 dated 08.12.2017 registered under Section 22/61/85 NDPS Act at Police Station Ladwa, Distt. Kurukshetra.

As per allegations in the FIR, 95 injections of REXOGESIC containing 2ML and 550 injections of OMGESIC each containing 2 ML were allegedly recovered from the petitioner as Narcotic Substance. The recovery of 570 injections of AVIL containing 10 ML each does not fall under the ambit of Narcotic Psychotropic Substance. FSL report is still awaited. Total 645 injections of REXOGESIC and OMGESIC each containing 2 ML were found containing Buprenorphine which came out to be 1296 grams and thus commercial quantity.

Learned counsel for the petitioner submitted that the controversy with regard to Buprenorphine at Sr. No.69 of the notifications would be debatable as to whether it is a psychotropic substance or otherwise.

The view expressed in *Ajaib Singh Vs. State of Punjab, 2012 (2) RCE (Criminal) 330* was in the context of Buprenorphine not covered under Schedule 1 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. Chattishgarh, 2014 (35) RCR (Criminal) 329* would make proposition debatable as to the contraband falling under the ambit of narcotic substance or otherwise.

At this stage, 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/Duty Magistrate.

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

April 02, 2018.

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(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No