

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Sr. No.211

CRM-M-16868-2018

Date of decision : 04.07.2018

Ashok Kumar @ Shoki

..... Petitioner

VERSUS

State of U.T. Chandigarh

..... Respondent

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. D.S. Sandhu, Advocate, for the petitioner.

Mr. Amit Kumar Lambdharia, Addl. P.P, U.T, Chandigarh.

SUDHIR MITTAL, J. (Oral)

The petitioner seeks regular bail in case FIR No.300 dated 19.07.2017, registered at Police Station Sector-39, Chandigarh, under Section 22 of NDPS Act, 1985.

The FIR shows that 50 injections of Buprenorphine 2 ml. each and 50 injections of Pheniramine Maleate of 10 ml. each, were recovered from the petitioner.

Learned counsel for the petitioner submits that Pheniramine Maleate is not a narcotic/psychotropic substance and as per Rule 66 (ii) of the NDPS Rules, 1985, a citizen can possess upto 100 dozes at a time. Reliance is also placed on a Division Bench judgment of this Court in **'Saleem Mohd. Vs. State of Punjab, 2015(5), Law Herald 3939.'** Further, the petitioner has been in custody for about eight months and the trial is likely to take some time to complete and therefore, no useful purpose would be served by keeping the petitioner in custody indefinitely.

Learned State counsel, however, submits that the petitioner was not in possession of any medical prescription to show that he was required to inject himself with Buprenorphine for medical purposes. He also states that

out of total eleven prosecution witnesses four have been examined and thus, the trial is not likely to take very long time to complete.

Whether, the petitioner possessed a medial prescription or not is a question of evidence and will be decided at the time of trial. The trial is not likely to be completed at an early date as only four prosecution witnesses has been examined till now. The ratio of Saleem Mohd. (supra) is also attracted in this case and there is no other case under the NDPS Act, 1985, pending against the petitioner.

Keeping in view the facts and circumstances of this case, I deem it appropriate to allow this petition. Accordingly, the petition is allowed and the petitioner Ashok Kumar @ Shoki, is ordered to be released on bail on his furnishing bail and surety bonds to the satisfaction of the trial Court concerned.

(SUDHIR MITTAL)
JUDGE

04.07.2018

Ramandeep Singh

Whether speaking / reasoned

Yes / No

Whether Reportable

Yes/ No