

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

211

CRM-M-20787-2018

Date of Decision:17.12.2018

Harmal Singh @ Billa

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR.JUSTICE HARI PAL VERMA.

Present: Mr. L.S. Sidhu, Advocate,
for the petitioner.

Mr. Jagmohan Ghumman, D.A.G., Punjab.

HARI PAL VERMA, J.(Oral)

Prayer in this petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in FIR No.16 dated 02.02.2018 under Section 22/61/85 of the NDPS Act, registered at Police Station Khamanon, District Fatehgarh Sahib.

Learned counsel for the petitioner states that as per allegations made in the FIR, 30 vials of injections of Omgesic (Bupernorphine IP) 2 ml and 30 vials of injections of Avil 10 ml each were allegedly recovered from the petitioner and he is in custody since 02.02.2018. He submits that 30 vials of injections of Avil does not fall within the ambit of the NDPS Act. Rather, the same fall under the Drugs and Cosmetics Act, 1940, whereas the bail application of the petitioner was dismissed by the trial court on the ground that it is commercial quantity. The contents of Bupernorphine hydrochloride are in Omgesic injections and if calculated the same will fall in non-commercial quantity and there is no other case against him.

Learned counsel for the petitioner relies upon the orders dated

05.09.2018 passed by this Court in **CRM-M-20545-2018 (Iqbal Singh Versus State of Punjab)** and **CRM-M-22815-2018 (Balraj Singh alias Raja Versus State of Punjab)**, respectively.

Learned State Counsel does not dispute the custody period. However, he states that it being a recovery of 30 vials of injections of Omgesic (Bupernorphine IP) is a commercial quantity and therefore, the petitioner is not entitled to bail, in view of the provisions of Section 37 of the NDPS Act.

I have heard the learned counsel for the parties and perused the FIR.

Having regard to the orders dated 05.09.2018 passed by this Court in **CRM-M-20545-2018 (Iqbal Singh Versus State of Punjab)** and **CRM-M-22815-2018 (Balraj Singh alias Raja Versus State of Punjab)**, there being no other case against the petitioner, coupled with the fact that he is in custody since 02.02.2018, this Court deems it appropriate to admit the petitioner on regular bail.

Accordingly, the present petition is allowed and the petitioner is admitted on regular bail, subject to furnishing of his adequate bail bonds/surety bonds to the satisfaction of trial Court.

It is made clear that in case the petitioner is found indulged in any other case of similar nature, the prosecution would be at liberty to seek cancellation of his bail.

December 17, 2018
seema

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No