

207-A

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

**CRM-M No.2901 of 2018
Date of Decision: 15.02.2018**

SANDEEP KUMARPetitioner
Vs
STATE OF PUNJABRespondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Ms. Bhavneet Gaur, Advocate
for the petitioner.

Mr. Sandeep Kumar, D.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.59 dated 27.10.2016, registered under Section 22 of the NDPS Act at Police Station Pojewal, District SBS Nagar.

As per allegations in the FIR, 10 injections of LP Gesic Buprenorphine and 12 narcotic vials were recovered from the possession of the petitioner.

Learned counsel for the petitioner submitted that as per FSL report, the sample of LP Gesic Buprenorphine injection was found to be containing 0.28 mg per ml. Colourless liquid of 12 vials was found containing Lignocane Hydrochloride to the

extent of 20.97 mg per ml. Total quantity of recovered contraband would be debatable in view of report of FSL received in this case.

Learned counsel further submitted that as per proviso of Rule 66 of NDPS Act, 1985, an individual can possess 100 doses of Buprenorphine Hydrochloride. 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 otherwise.

In **Kismat Singh Vs. State of Punjab, 2012 (2) RCR (Criminal) 329** and **Ajaib Singh Vs. State of Punjab, 2012 (2) RCR (Criminal) 330,** Buprenorphine has been held to be covered under the Drugs and Cosmetics Act and the salt has not been included in the Schedule I of the NDPS Rules, whereas as per **Dilip Kumar Virvani and others Vs. State of Chattishgarh, 2014 (35) RCR (Criminal) 329,** Buprenorphine Hydrochloride is a psychotropic substance within the meaning of Section 2 (ixia) of the Act. It would be debatable as to whether Lignocane Hydrochloride would fall under the ambit of narcotic substance. It would also be debatable in respect of total weight of the contraband and the trial of the case under the NDPS Act.

At this stage, without advertng to the merits of the case, I deem it appropriate to grant benefit of regular bail to the petitioner.

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

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

February 15, 2018

Atik

Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No