

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

CRM-M No.47958 of 2017

Date of decision : 15.05.2018

Gurwinder Kumar

.....Petitioner

Versus

State of Punjab

...Respondent

CORAM : HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present : Mr. Amit Kohar, Advocate for the petitioner.

Mr. Hittan Nehra, Addl. A. G., Punjab.

* * *

DAYA CHAUDHARY, J. (Oral)

This petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the petitioner in case FIR No.97 dated 03.08.2017 registered under Sections 22/61/85 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (here-in-after referred to as 'the NDPS Act') at Police Station Bilga, Distt. Jalandhar Rural.

Learned counsel for the petitioner submits that the petitioner has falsely been implicated in the case, whereas no offence is made out against him. As per the allegations in the FIR, the petitioner and his co-accused Raj Tilak were apprehended and from the petitioner 10 injections of Buprenorphine 2/2 ML and 8 injections of Avil 10/10 ML and from the co-accused 30 injections of Pheniramine 2/2 ML and 17 injections of Avil 2/2 ML each were recovered. Learned counsel also submits that the alleged

recovery does not fall within the ambit of provisions of the NDPS Act. Learned counsel further submits that there is nothing on record to show that any sample was taken from the entire quantity and what was sent to the Forensic Science Laboratory, whereas it was mandatory. If the real contents are taken into consideration, it comes to 20 grams, which is non-commercial quantity. Petitioner is in custody for the last 09 months and only three witnesses have been examined out of total 11 witnesses and trial will take long time.

Learned State counsel has not disputed the status of the trial as well as examination of three witnesses out of total 11 witnesses but he opposes the submissions made by learned counsel for the petitioner.

Keeping in view the submissions made by learned counsel for the petitioner and also by considering the custody period as well as stage of the trial and the recovery effected, which is non-commercial, the present petition is allowed and petitioner is directed to be released on bail to the satisfaction of the trial Court/Duty Magistrate, Jalandhar.

15.05.2018

sunil yadav

**(DAYA CHAUDHARY)
JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No