

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

**CRM-M No.5245 of 2018
Date of Decision: 25.04.2018**

Jaipal

.....Petitioner

Vs

UT of Chandigarh

.....Respondent

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

Present: Mr. A.K. Handa, Advocate
for the petitioner.

Mr. Deepinder Brar, Addl., PP, UT, Chandigarh.

RAJ MOHAN SINGH, J.(Oral)

Petitioner seeks grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.57 dated 12.04.2017 registered under Section 22 of the NDPS Act at Police station Maloya, District Chandigarh.

70 injections of rexogesic each containing 2 ml, 12 injections of pheniramine maleate each containing 10 ml and 12 injections of buprenorphine each containing 2 ml were allegedly recovered from the petitioner.

Learned counsel for the petitioner submitted that

pheniramine maleate is not covered under the schedule of NDPS Act. Total 82 injections containing buprenorphine were recovered. 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 not.

In view of ratio laid down in **Ajaib Singh Vs. State of Punjab, 2012(2) RCR (Criminal) 330,** buprenorphine is not mentioned in Schedule I 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. However in **Dilip Kumar Virvani and others Vs. State of Chattisgarh, 2014(35) RCR (Criminal) 329,** separate analogy has been opined.

Keeping in view the aforesaid position, it would be debatable as to the contraband falling under the narcotic substance or otherwise. Petitioner is in custody since 12.04.2017. Out of total 13 witnesses, 3 prosecution witnesses have been examined.

In view of aforesaid, 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

heavy bail bonds and surety bonds to the satisfaction of the trial Court.

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

April 25, 2018.
Prince

(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No