

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Crl. Misc. No. M-7728 of 2018
Date of Decision: February 28, 2018

Suraj @ Saroj

.....Petitioner

versus

State of U.T. Chandigarh

.....Respondent

CORAM: HON'BLE MR.JUSTICE SUDHIR MITTAL

Present: Mr. Naveen Upadhyay, Advocate
for the petitioner

Mr. Sumit Jain, Advocate
for U.T. Chandigarh

Sudhir Mittal, J. (Oral)

The petitioner seeks grant of regular bail in case FIR No. 210 dated 07.10.2017, registered under Section 22 of NDPS Act, 1985 at Police Station Sector 26, U.T. Chandigarh.

Learned counsel for the petitioner states that thirteen injections of buprenorphine each containing 2 ml. have been recovered from the petitioner and that the said contraband is small quantity. It is further submitted that the petitioner has been in custody since 07.10.2017, the investigation is complete and challan stands presented. Reliance is also placed upon judgment of the Hon'ble Supreme Court in ***Ouseph @ Thankachan vs. State of Kerala, 2004(4) SCC 446*** to support his contention that the recovery is of small quantity.

Learned counsel for U.T. Chandigarh submits that the recovery is of commercial quantity and for the said purpose he relies upon report dated 15.12.2017 received from the Central Forensic Science Laboratory, Chandigarh. However, he does not dispute the fact that the investigation is complete and the challan already

A perusal of the report of the CFSL shows that the volume of liquid in thirteen injections is mentioned as 26.0 ml. whereas the weight of the said liquid is mentioned as 26.26 grams. According to the Notification dated 19.10.2001 appended with the NDPS Act, 1985, 20 grams of Buprenorphine is commercial quantity and the entire quantity of mixture or solution is to be considered for the purpose of concluding whether the recovery is of small quantity or commercial quantity. Thus, 26.26 grams of Buprenorphine has been recovered which is little above the commercial quantity.

The judgment of the Hon'ble Supreme Court of India, however, states otherwise because in one line of the said judgment it is mentioned that "each ml. contains only 3 mg". Thus considered, the recovery is less than small quantity.

Be that as it may, the fact remains that the investigation in this case is complete and there is hardly any opportunity for the petitioner to try and influence the same. There is no other FIR registered against the petitioner and, therefore, it would be just and appropriate to grant him regular bail. Accordingly, the petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail and surety bonds to the satisfaction of the trial Court concerned.

February 28, 2018

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[SUDHIR MITTAL]
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No