

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

**CRM-M No.780 of 2018
Decided on: 12.09.2018**

Viney Sharma

....Petitioner

Versus

Union Territory, Chandigarh

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Vishal Sharma Haritwal, Advocate
for the petitioner.

Dr. Sukant Gupta, Addl. P.P., U.T., Chandigarh.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for grant of regular bail to the petitioner under Section 439 of the Code of Criminal Procedure (in short 'Cr.P.C.') in FIR No.373 dated 07.09.2017, for offence punishable under Section 22 of the Narcotic Drug and Psychotropic Substances Act, 1985 (in short 'the NDPS Act'), registered at Police Station Sector 39, Chandigarh.

Counsel for the petitioner has submitted that the petitioner is in judicial custody since 07.09.2017 and he is not involved in any other case. It is further submitted that, as per the allegations in the FIR, the police party on suspicion apprehended the petitioner and recovered 11 injections of Buprenorphine and 11 Marka Pheniramine Maleate. It is also submitted that even though it is a case of chance recovery, however, it will be a debatable issue to be decided during the course of trial whether the provisions of Section 50 of the NDPS Act were

complied with or not.

Counsel for the petitioner has further argued that out of 14 prosecution witnesses, only 04 PWs have been examined and the conclusion of the trial will take some time.

Counsel for the U.T., Chandigarh, on the basis of the Custody Certificate dated 26.05.2018, has not disputed the fact that the petitioner is in judicial custody since 07.09.2017 and he is not involved in any other case.

Without commenting anything on merits of the case, considering the fact that only 04 prosecution witnesses have been examined so far; the petitioner is in custody for the last more than 01 year; he is not involved in any other case, this petition is allowed and the petitioner is directed to be released on bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaqa Magistrate/Duty Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail of the petitioner, in case he is found involved in any other case or misusing the concession of bail, in any manner.

(ARVIND SINGH SANGWAN)
JUDGE

12.09.2018

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