

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-8512-2018 (O&M)
Date of decision: 26.04.2018

Kulbir Singh @ Dogar

... Petitioner

Vs.

U.T. Chandigarh

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Ishan Sharma, Advocate
for the petitioner.

Mr. Deepinder Brar, Addl. PP, U.T. Chandigarh.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for grant of regular bail in FIR No.189 dated 11.06.2017 under Sections 21 & 22 of NDPS Act, registered at Police Station Sector-39, Chandigarh.

Learned counsel for the petitioner submits that recovery from the petitioner is of 22 injections of pheneramine and the petitioner is not involved in any other case. It is further submitted that the petitioner is in judicial lockup since 20.01.2018. Counsel for the petitioner further submits that as per proviso to Rule 66 of NDPS Rules, 1985, an individual can possess 100 doses of Buprenorphine Hydrochloride and has relied upon the order dated 30.08.2018 passed in CRM-M-20997-2017. The operative part of this order is reproduced as under: -

“Learned counsel for the petitioner submits that petitioner is in

custody since 7.3.2017. Earlier also, the petitioner remained in custody from 4.8.2016 to 22.11.2016. Thus, the petitioner is in custody for more than nine months. She has further argued that the allegation against the petitioner is that he was found in possession of 35 vials of Buprenorphine Hydrochloride and in view of proviso attached to Rule 66 of the NDPS Rules, 1985 an individual can possess 100 doses of the same for his personal medical use. She has also relied upon Saleem Mohd. Versus State of Punjab 2015 (25) R.C.R., (Criminal) 816 and Ajaib Singh versus State of Punjab 2012 (2) R.C.R. (Criminal) 330 to contend that Buprenorphine does not fall under the definition of psychotropic substance.

On the other hand, learned State counsel has argued that the total quantity of 35 Buprenorphine vials, which contained 2 ML each, comes to 70 gm. Therefore, falls in commercial quantity as the quantity below 20 grams comes under non-commercial quantity.

I have heard learned counsel for the parties.

Having considered the case of Saleem Mohd.'s case (supra) and noticing the fact that the petitioner is in custody for more than nine months and no other case has been pointed out against him and the trial is at initial stage and it will take time, I deem it appropriate to release him on regular bail.

Accordingly, the present petition is allowed and the petitioner is admitted on regular bail, subject to furnishing of his

bail bonds/surety bonds to the satisfaction of the trial Court.

However, it is made clear that the observations made hereinabove shall not be construed as any expression on the merits of the case.”

Learned counsel for U.T. Chandigarh, on instructions from SI Kulwant Singh, has not disputed the fact that the petitioner is not involved in any other case and the prosecution evidence is yet to start.

Without commenting anything on merits of the case, considering the fact that the petitioner is in judicial lockup since 20.01.2018 and is not involved in any other case; prosecution evidence is yet to start and conclusion of the trial will take some time, this petition is allowed and the petitioner is directed to be released on bail subject to furnishing his bail/surety bond to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate.

Petition is disposed of.

[ARVIND SINGH SANGWAN]
JUDGE

26.04.2018
vishnu

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No