

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

**CWP-15544-2018 (O&M)
Date of decision : 10.07.2018**

Dr. Jimmy Jindal

...Petitioner(s)

Versus

Union of India and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Ms. Tanu Bedi, Advocate,
for the petitioner.

JITENDRA CHAUHAN, J. (Oral)

The present petition under Articles 226 and 227 of the Constitution of India has been filed for quashing of the criminal proceedings initiated against the petitioner in FIR NO.323 dated 05.06.2018, registered under Section 22(C) of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') at Police Station City Fatehabad, being violative of fundamental rights of the petitioner under Articles 19, 20 and 21 of the Constitution of India.

It is asserted that the petitioner is a practising Psychiatrist registered under the Medical Council of India and therefore, is authorized to prescribe the medicine in question. The medicine recovered from the petitioner does not fall under the NDPS Act and in fact, falls under Schedule H-1 of the Drugs and Cosmetics Act and there is no ban in prescribing this medicine by a qualified physician. It is further asserted that in identical matter in CWP-9779 of 2015, a Coordinate Bench of this Court has stayed proceedings before the trial Court.

The short question arising for consideration is whether the drug Buprenorphine falls under Schedule H-1 of the Drugs and Cosmetics Act or the NDPS Act ?

As per the FIR, huge quantity of medicines containing salt of Buprenorphine were recovered from the petitioner. The petitioner does not hold any licence under the NDPS Act. The entry of the recovered medicine from the petitioner is reflected at Sr. No.169 in the notification specifying the small and commercial quantity under the NDPS Act. Therefore, the submission of the learned counsel that the drug in question falls under Schedule H-1 of the Drugs and Cosmetics Act, being against the factual position, is of no consequence. As per the report obtained through RTI, the drug recovered from the petitioner has been noticed as Buprenorphine falling under the NDPS Act. In view of entry No.169, it is clearly established that the drug in question falls under the NDPS Act for which the petitioner has no licence, therefore, no case for quashing the FIR is made out. The transactions reflected in Annexure P-10 (colly) in the absence of patients' treatment record prima facie strongly suggest that the medicines were obtained for the purpose other than projected in the petition, particularly, when the status of the petitioner as a qualified Psychiatrist is also not established on the basis of record. It is open to the State to carry out further investigation in this regard. The Court feels that it is not within its domain to comment on the submissions made by learned counsel for the petitioner with regard to order passed by a Coordinate Bench in CWP No.9779 of 2015.

Dismissed.

Pending application(s), if any, shall stand disposed of.

10.07.2018
SN/atulsethi

(JITENDRA CHAUHAN)
JUDGE

Whether speaking / reasoned :	Yes	No
Whether Reportable :	Yes	No