

209 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-2699-2019(O&M)

Date of decision:07.03.2019

Updesh Singh alias Raju

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present: Mr. N.S.Dandiwal, Advocate
for the petitioner.

Mr. Munish Dev Sharma, AAG, Haryana.

RAJBIR SEHRAWAT, J. (ORAL)

Prayer in this petition filed under Section 439 of Cr.P.C. is for grant of bail pending trial in case FIR No.199 dated 26.08.2018 under Section 21 of NDPS Act, registered at Police Station Sadar, Ambala.

Learned counsel for the petitioner contends that the case against the petitioner has been concocted for malafide reasons. The petitioner is not involved in the case, at all. Even as per the case of the police, the alleged recovery from the petitioner is of 150 injections of buprenorphine, containing the prohibited substance *buprenorphine hydrochloride*. However, the injection is a manufactured drug and as per the manufacturers description, the actual quantity in the entire recovery is only 2.75 grams, which is less than the commercial quantity. Learned counsel for the petitioner has relied upon the judgment of this Court dated 21.08.2018 rendered in ***Rajvir @ Raju Vs. State of Punjab in CRM-M-35080 of 2018***, to support his contention. It is further contended that although the challan has already been filed, however, the FSL report has not been submitted, so far. The petitioner is in custody since 26.08.2018. The

statutory period of 180 days of filing the challan is already over. However, since the FSL report has not been filed, therefore, the challan against the petitioner is not complete. Hence, the petitioner is entitled the default bail in terms of Section 167 (2) Cr.P.C. Learned counsel for the petitioner has relied upon the Division Bench judgment of this Court rendered in **CRR No.4659 of 2015 titled as Ajit Singh alias Jeeta and another vs. State of Punjab**, decided on 30.11.2018, to support his contention.

On the other hand, learned State counsel, being instructed by ASI Mohan Lal, submits that there is a huge recovery of 150 injections of buprenorphine from the petitioner. It is also submitted that there is one more case under the NDPS against the petitioner. However, it is not disputed that the FSL report has not been submitted to the Court so far.

In view of the above submissions made by learned counsel for the petitioner and in view of the fact that the FSL report has not been filed within statutory period, but without commenting any further on merits of the case, the present petition is allowed and the petitioner is ordered to be released on bail pending trial subject to his furnishing bail bonds/surety to the satisfaction of the Trial Court/Duty Magistrate, concerned.

(RAJBIR SEHRAWAT)
JUDGE

07.03.2019
Hemlata

Whether speaking/reasoned
Whether reportable

Yes / No
Yes / No