

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-3328 OF 2019

DATE OF DECISION: FEBRUARY 14, 2019

NISHANT JAIN

...PETITIONER

VERSUS

UNION TERRITORY OF CHANDIGARH

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ.

PRESENT: MR. N.S. SHEKHAWAT, ADVOCATE FOR THE PETITIONER.
MS. ASHIMA MOR, APP. FOR U.T., CHANDIGARH.

MANOJ BAJAJ, J.(ORAL)

This petition has been preferred under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case FIR No.307 dated 2.9.2018 under Sections 21, 22 of NDPS Act, 1985, registered at Police Station South Sector-34, Chandigarh.

The FIR was registered with the allegations that on 2.9.2018, when the police party was on patrol duty, a boy was seen coming towards Section 45/46 light point, who was carrying a bag of red colour in his hand. On seeking the police, he started walking quickly. The police party suspected that the boy is having some stolen items. After about 10-12 steps, he was apprehended and the boy tried to throw away the bag. Upon search, a white coloured cardboard box was found containing 24 intoxicating injections, out of which 12 were of Buprenorphine omgesic 2 ml each (total 24 ml) and 12 injections of Pheniramine Maleate 10 ml each (total 120 ml) and a small polythene pouch containing a brown coloured powder which was 8.70 gms of Heroin.

Learned counsel for the petitioner contends that quantity of Heroin recovered from the petitioner is small. Further, it is pointed out that 12 injections of Buprenorphine omgesic is little over the commercial quantity and has placed reliance on the order passed by this Court in CrI.Misc. No.7728 of 2018, **Suraj @ Saroj vs. State of U.T., Chandigarh**, decided on 28.02.2018, wherein 13 injections of Buprenorphine each containing 2 ml. totalling 26.26 gms. of Buprenorphine were recovered and this Court granted the concession of bail to the accused taking that to be little above the commercial quantity. Learned counsel further contends that the investigation in this case is complete and challan stands filed.

Learned APP for U.T., Chandigarh has opposed the prayer for grant of bail, but, however, admits that the investigation is complete and challan stands filed.

It is not in dispute that the other 12 injections of Pheniramine Maleate do not fall within the ambit of NDPS Act.

Therefore, considering the custodial period of the petitioner, status of the case, further detention of the petitioner is not justified. Without commenting anything upon merits of the case and considering the above, the petitioner, namely, Nishant Jain is admitted to regular bail subject to his furnishing the requisite bail bonds and surety bonds to the satisfaction of the trial Court.

The petition is allowed.

February 14, 2019

Gulati

Whether Reportable : Yes/No

Whether Speaking/Reasoned : Yes/No

(MANOJ BAJAJ)

JUDGE