

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

**CRM-M No.6485 of 2019
Decided on: 12.03.2019**

Sudhakar @ Fauji

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. M.S. Dua, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

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.0113 dated 17.04.2018, for offence punishable under Section 22 of the Narcotic Drug and Psychotropic Substances Act, 1985 (in short 'the NDPS Act'), registered at Police Station City Rajpura, District Patiala.

Counsel for the petitioner has submitted that as per the allegations in the FIR, the Investigating Officer, while on patrol duty checked a Punjab Roadway Bus and found 02 young persons, out of which, one was carrying a black colour bag on his back and the second one was carrying a red colour bag on his shoulder, ran away from the rear window of the bus and they were apprehended by the police and on

asking, one person informed his name as Sudhakar @ Fauji i.e. the petitioner and the other person disclosed his name as Sadlo @ Mani and when the Investigating Officer, served them with a notice under Section 50 of the NDPS Act, they reposed confidence in him and on search of the bag of Sudhakar @ Fauji i.e. the present petitioner, 300 injections of Mark AVIL were found whereas in the bag of the co-accused, Sadlo @ Mani, intoxicant injections Mark LIP GESIC BUPRENORPHINE was recovered.

On 15.02.2019, noticing the aforesaid fact, counsel for the State was directed to file a specific affidavit.

The affidavit of the Deputy Superintendent of Police, Sub-Division Rajpura, District Patiala, in compliance of the order dated 15.02.2019, has been filed in the Court today and as per the affidavit based on the report of the Drug Inspector, Patiala-2 dated 05.03.2019 and as per the FSL Report dated 11.06.2018, the following report has been made:-

“As per copy of Forensic Science Laboratory, Punjab S.A.S. Nagar, Mohali, report No.1529/2018/Taxi/FSL/PP dated 11.06.2018 submitted alongwith letter No.45/5A dated 01.03.2019 of your office. The drug shall Pheniramine Maleate is a Schedule H drug as per the provisions of Drugs and Cosmetics Act, 1940 and Rules, 1945. The drug salt Pheniramine Maleate does not fall within the purview of NDPS Act 1985. The drug salt Pheniramine Maleate does not fall within the purview of NDPS Act 1985. Further the drug salt Buprenorphine Hydrochloride is a psychotropic substance and fall within the purview of NDPS Act, 195.

This may please be treated as technical opinion and

legal opinion may be taken from legal department.

*Sd/- 05.03.19
Drug Inspector
Patiala-2”*

On the basis of the aforesaid report, it is stated in para 4 of the affidavit that the recovery effected from the petitioner would fall under the provisions of the Drugs and Cosmetics Act and not under the NDPS Act.

In view of the above, 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**

12.03.2019
yakub

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