

S.No.111

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

CRM-M-8287 of 2019 (O&M)

Date of Decision:13.11.2019

Bhupinder Singh

.....Petitioner

Vs.

State of U.T. Chandigarh

.....Respondent

CORAM:- HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present:- Mr. Amjad Khan, Advocate for the petitioner.

Mr. Gautam Dutt, Advocate for UT, Chandigarh.

Rajbir Sehrawat, J.(Oral)

The present petition has been filed by the petitioner under Section 439 Cr.P.C for grant of bail pending trial in case FIR No.294 dated 10.08.2018 registered under Section 22 of NDPS Act, 1985 at Police Station Sector 36, Chandigarh.

It is contended by learned counsel for the petitioner that the case against the petitioner is totally concocted. Still further, it is submitted that even as per the case of prosecution, the alleged recovery from the petitioner is of 25 injections of buprenorphine. However, the FSL report, being relied upon by the prosecution, does not show even the presence of any prohibited substance as the result of the chemical examination. Since no prohibited substance might have been found in the injections by the FSL, therefore, it has only mentioned the description of the solution and the quantity thereof, without specifying any presence of any prohibited substance therein. Hence, the petitioner is being prosecuted wrongly. Still further, it is submitted that even if the recovery is taken to be of a manufactured drug, still the quantity of the prohibited substance, as mentioned by the manufacturer of the label of the injections is only 0.300

mg per ml of the solution, which comes less than even the small quantity prescribed for the substance in the entire recovered material. Counsel has relied upon the judgment of this Court rendered in **CRM-M-35080 of 2018 – Rajvir Singh @ Raju v. State of Punjab** decided on 21.08.2018, to support his contention. It is further submitted that the petitioner is in custody since 08.10.2018. The trial is already going on, therefore, the petitioner is not required for any investigation purposes. Out of 17 witnesses, only nine witnesses have been examined so far. Hence, the trial is not going to be completed in near future. There is no other case against the petitioner. Hence, the petitioner deserves to be released on bail.

On the other hand, learned counsel appearing for the UT, Chandigarh being instructed by ASI Sumer Singh, submits that the petitioner has been found in possession of huge quantity of injections containing prohibited substance. However, the learned counsel for UT has not disputed the report of the FSL as such. He has also not disputed that the petitioner is in custody since 08.10.2018. It is also not disputed that there is no other case against the petitioner.

In view of the above, but without commenting upon merits of the case, the present petition is allowed. It is ordered that the petitioner be released on bail on his furnishing bail bonds/ sureties to the satisfaction of the trial Court/ Duty Magistrate.

November 13, 2019**renu****(RAJBIR SEHRAWAT)
JUDGE**

Whether Speaking/reasoned
Whether Reportable

Yes/No
Yes/No