

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

CRM-M-15272-2019 (O&M)
Date of decision : 29.05.2019

Mandeep Singh @ Mani

...Petitioner

Versus

State of U.T. Chandigarh

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL.

Present: Mr. Govind Goel, Advocate for
Mr. A.D.S. Sukhija, Advocate for the petitioner.

Mr. Amit Kumar Goyal, APP for U.T. Chandigarh

ANIL KSHETARPAL, J.

Petitioner prays for grant of regular bail in FIR No.318 dated 09.09.2018 registered under Sections 21, 22 of Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station Sector-34, Chandigarh.

Petitioner is in custody for the last 8 ½ months. Alleged recovery from the petitioner consists of 8.70 grams heroin and 13 injections of Buprenorphine each containing 2 ml totaling 26 ml. Investigation has already been completed.

Learned counsel appearing for the petitioner has submitted

that a look at the report of Forensic Science Laboratory, it is apparent that each injection contained only 0.3mg schedule drug and the total quantity would not fall in the category of commercial, if actual narcotic is calculated. He has drawn attention of the Court to the judgment passed by Hon'ble the Supreme Court in the case of **Ouseph alias Thankachan Vs. State of Kerala, 2004(4) SCC 446**, as also subsequent judgment of Hon'ble the Supreme Court in the case of **E. Micheal Raj Vs. Intelligence Officer, Narcotic Control Bureau, 2008(5) SCC 161**. He further brought to the notice of the Court that the matter has also been referred to a Larger Bench in the case of **Hira Singh and another Vs. Union of India and another, (2017) 3 SCC 162**.

On the other hand learned counsel appearing for the Union Territory, Chandigarh has submitted that as per Notification, entire quantity is to be taken into consideration and there is another case under the NDPS Act against the petitioner.

In response thereto, learned counsel for the petitioner has passed on a copy of the judgment passed by the Special Court, Chandigarh in NDPS Case No.71 of 2016 decided on 09.11.2017, whereby the petitioner has already been acquitted. Hence, he submitted that in previous case also, petitioner was falsely implicated and the case was found to be false.

At this stage, it would not be appropriate for the Court to give any opinion on merits of the case.

Without commenting on the merits of the case, however, after

considering totality of facts involved in the present case, it would be debatable as to whether the alleged recovery from the petitioner would fall in commercial quantity or not. Investigation is complete. Challan has been filed. It is also not in dispute that the petitioner has already been acquitted in the previous case.

Keeping in view these facts, petitioner is directed to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate.

Accordingly, the present petition is allowed.

29.05.2019

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No