

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

**CRM-M No. 21134 of 2019
Date of Decision : 19.08.2019**

Mohan Singh alias Chikna Petitioner

Versus

State of Punjab Respondent

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present: Mr.Rishu Mahajan, Advocate for the petitioner.

Mr.K.S.Aulakh, DAG, Punjab.

RAJBIR SEHRAWAT, J. (Oral)

Present petition has been filed by the petitioner under Section 439 Cr.P.C. for grant of bail pending trial in case FIR No. 42 dated 30.06.2018, under Section 22 of NDPS Act, 1985 registered at Police Station Naya Gaon, District SAS Nagar, Mohali.

It is contended by learned counsel for the petitioner that the case against the petitioner is totally concocted. He is not involved in the crime as alleged against him. Otherwise also, even as per the case of the prosecution the alleged recovery from the petitioner is of 25 injections (2 ml each) alleged to have been containing prohibited substance Buprenorphine and 25 injections of AVIL. The material contained in injections of AVIL is not a prohibited substance. So far as injection of Buprenorphine is concerned, as per the FSL report the quantity of the prohibited substance found in each injection is only 0.280 milligrams per ml. Hence the total quantity of prohibited substance found in the entire recovery is much less than even the small quantity prescribed for the substance. Counsel has

relied upon judgment of this Court rendered in **Rajbir alias Raju vs. State of Punjab, 2018(4) RCR(CrL) 375** to support his contention. It is further submitted that the petitioner is in custody since 30.06.2018. Charge has already been framed against the petitioner. He is not required for any investigation purposes. The trial of the case is likely to take long time to conclude. It is further submitted that there is no other case under the NDPS Act against the petitioner.

On the other hand, learned counsel for the State, being instructed by ASI Sikander Singh, submits that there has been a huge recovery of 25 injections containing prohibited substance Buprenorphine and 25 injections of AVIL from the petitioner. However, it is not disputed that as per the report of the FSL, the prohibited substance found per mililitre of the injection material is only 0.280 miligrams which comes to be less than the small quantity prescribed for this substance in the entire recovery. It is also not disputed that the petitioner is in custody since 30.06.2018, charge has already been framed in this case and that there is no other case against the petitioner under the NDPS Act.

In view of the above, but without commenting upon the merits of the case, the present petition is allowed. Petitioner is granted the concession of bail pending trial. He be released on bail pending trial on his furnishing bail/surety bonds to the satisfaction of the concerned trial Court/Duty Magistrate.

(RAJBIR SEHRAWAT)
JUDGE

19.08.2019
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