

S.No.204

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

CRM-M-21682 of 2019 (O&M)

Date of Decision:30.05.2019

Raghvir Singh @ Mithu

.....Petitioner

Vs.

State of Punjab

.....Respondent

CORAM:- HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present:- Mr. N.S. Diwana, Advocate
for the petitioner.
Mr. K.S. Aulakh, DAG, Punjab.

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.117 dated 27.09.2018 registered under Sections 22/61/85 of NDPS Act at Police Station Sirhind, District Fatehgarh Sahib.

Learned counsel for the petitioner contends that the case against the petitioner has been fabricated by the Police. Otherwise, the petitioner is not involved in any crime as alleged in the FIR. Even as per the allegations in the FIR, the recovery from the petitioner is of 21 injections of Buprenorphine IP Omgesic and 21 injections of Avil. So far as the injections of Avil are concerned, the same are not prohibited substance under the NDPS Act. So far as the injections of Buprenorphine are concerned, the same have been found to contain the prohibited substance Buprenorphine hydrochloride. However, as per the FSL report, the quantity of actual prohibited substance found in the injections are .26 mg per ml. Hence, in the entire alleged recovery, the quantity of prohibited substance found is less than even the small quantity prescribed for this substance.

Counsel relied upon a judgment of this Court in **CRM-M-35080 of 2018;**

Rajvir Singh @ Raju v. State of Punjab decided on **21.08.2018**. Still further, it is submitted that the charge has already been framed in this case. The petitioner is in custody since 27.09.2018. He is not required for any investigation purposes. It is further submitted that there is no other case against the petitioner.

On the other hand, learned counsel for the State, on instructions from ASI Baljit Singh, submits that there is a huge recovery of 21 injections containing prohibited substance, from the petitioner. However, it is not disputed that as per the FSL report, the quantity of actual prohibited substance found in these injections is .26 mg per ml, which comes to less than even the small quantity of prohibited substance; in the entire recovery. It is also not disputed that the petitioner is in custody since 27.09.2018 and 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.

May 30, 2019
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(RAJBIR SEHRAWAT)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No