

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

CRM-M No.51882 of 2018

Date of Decision: 11.03.2019

Kamaljit

....Petitioner

Versus

State of Punjab

....Respondent

BEFORE :- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present:- Mr. Surinder Mohan Sharma, Advocate
for the petitioner.

Mr. Amit Mehta, Sr. D.A.G., Punjab.

DAYA CHAUDHARY, J.

This petition has been filed by accused petitioner, namely, Kamaljit for grant of regular bail to him in case FIR No.478 dated 10.12.2017 registered under Sections 22/29 of the NDPS Act, 1985 at Police Station Focal Point, Ludhiana, Punjab.

Learned counsel for the petitioner submits that the petitioner has falsely been implicated in the case, whereas, he was not involved. The place of occurrence was a busy place but still no independent witness was joined at the time of alleged recovery.

As per allegations, total 55 *Buprenorphine injections* were recovered from the possession of the petitioner and 55 injections of *Avil* were recovered from the possession of his co-accused Manjit Singh, who has been released on regular bail vide order dated 28.09.2018. The petitioner has undergone custody of more than 11 months and he is not a

previous convict or involved in any other criminal case. The challan has been presented before the Court and trial may take some time to conclude as there are total 20 prosecution witnesses. The exact quantity of intoxicant would be asserted after having the FSL report. All witnesses are the official and there is no possibility that the petitioner may influence the witnesses or tamper with the evidence.

Learned State counsel has not disputed the custody period as well as release of co-accused Manjit Singh on regular bail vide order dated 28.09.2018.

Heard the arguments of learned counsel for the parties and have also gone through the contents of the FIR as well as other documents available on the file.

As per allegations levelled in the FIR, two persons, namely, Kamaljit (the present petitioner) and co-accused Manjit Singh were apprehended on the basis of suspicion on 10.12.2017. They were shown to have one plastic bag each in their hands. From the plastic bag carried by the present petitioner, 55 injections of 2 ml. each of '*Buprenorphine*' were recovered and from the possession of co-accused Manjit Singh, 55 injections of 10 ml. each of '*Avil*' were recovered.

By considering the submissions made by learned counsel for the parties; the custody of the petitioner since lodging of the FIR i.e 10.12.2017; the fact that the place of occurrence was a thoroughfare and no independent witness was joined and also keeping in view two divergent views in case ***Rajvir Singh @ Raju vs State of Punjab passed in CRM-M-35080 of 2018*** and ***CRM-M-28002 of 2018 titled as Anil Kumar @ Nehla vs State of Punjab***; the matter has been referred to the Division Bench and

the same is still pending, the FSL report has not been received as yet; the present petition is allowed and petitioner, namely, Kamaljit is directed to be released on interim bail on his furnishing bail/surety bonds to the satisfaction of the trial Court till the receipt of the FSL report or the decision by the Division Bench.

However, it is made clear that the interim bail would be till the decision by the Division Bench. In case, the decision is contrary to the interest of the petitioner in any manner, he is at liberty to move a petition for regular bail on merits thereafter.

(DAYA CHAUDHARY)
JUDGE

11.03.2019
gurpreet

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No