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

CRM-M-41094 of 2019

Date of decision: December 10, 2019

Hardeep Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Mohit Kakkar, Advocate for the petitioner.

Mr. V.G. Jauhar, Senior DAG Punjab.

MAHABIR SINGH SINDHU, J

Present petition has been filed under Section 439 of the Code of Criminal Procedure, 1973 (for short 'Cr. P.C.') for grant of bail pending trial to the petitioner, in FIR No.43 dated 28.04.2018, under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act'), registered at Police Station Sadar Kharar, District Mohali.

Brief facts of the present case are that on 28.04.2018, SI-Jatin Kapoor along with other police officials was patrolling at cross road of Machli Kalan-Todar Majra-Jhanjeri. At about 5:30 P.M., they saw one person coming on a motorcycle from the side of Machli Kalan and after seeing them, motor-cyclist immediately turned his motorcycle, but he fell down. Then SI-Jatin Kapoor along with other police officials caught hold of him, who upon enquiry, disclosed his

name as Hardeep Singh (present petitioner). SI-Jatin Kapoor revealed his identity to the petitioner and asked him to get his search conducted either in the presence of some Magistrate or Gazetted Officer, since he had suspicion of having some intoxicant contraband in his possession. Petitioner reposed his faith in Jatin Kapoor-SI, then upon search, 13 injections of Avil (10 ML) and 13 injections of Buprenorphine (2 ML) were recovered from the pockets of his *capri* (half pant). Petitioner was also unable to show, at the spot, any permit/prescription of any doctor for carrying such contraband with him.

It is contended by learned counsel for the petitioner that he is in custody since 09.01.2019 and has been falsely implicated in this case. Also contends that there is no other case against the petitioner.

On the other hand, learned State counsel has opposed the prayer of the petitioner on the ground that the contraband was recovered from the possession of the petitioner without having any licence or permit.

Heard both sides and perused the paper-book.

Concededly, petitioner was apprehended and 13 intoxicant vials/ ampules Omgesic along with 13 ampules of Avil were recovered from his possession. Since as per FSL report, total weight of 13 ampules/vials of Omgesic comes out to 26 ml (i.e. 26 grams), thus, the same falls under commercial category, and fully attract the bar to grant bail, as contemplated under Section 37 of the NDPS Act.

In view of the facts and circumstances of the present case, no ground for grant of bail pending trial to the petitioner, is made out.

Petition stands dismissed.

Needless to say that observations made above may not be construed as an expression of opinion on merits of the case.

(MAHABIR SINGH SINDHU)
JUDGE

December 10, 2019

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Whether speaking/ reasoned: Yes/No

Whether Reportable: Yes/No