

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

**Crl. Misc. No.M-50616 of 2019 (O&M)
Date of Decision: December 03, 2019**

Lakhvir Singh @ Lakhi

.....PETITIONER

VERSUS

State of Punjab

.....RESPONDENT

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Shivoy Dhir, Advocate
for the petitioner.

SURINDER GUPTA, J.(Oral)

The present petition has been filed under Section 439 Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 62 dated 04.08.2019 registered for the offence punishable under Section 22 of Narcotic Drugs and Psychotropic Substances, Act at Police Station Balachaur, District Shaheed Bhagat Singh Nagar.

Heard.

Notice of motion.

On asking of the court, Mr. Rakeshinder Singh Sidhu, A.A.G, Punjab, who is present in the Court accepts notice and submits that intimation by Registry informing of fixation of the petition has already been received and record of the case is available with him.

As per case of the prosecution, the petitioner was apprehended on 04.08.2019 and 22 injections of contraband i.e. 11 injections of Buprenorphine and 11 injections of Avil, were recovered from his

possession.

Learned State counsel on instructions from ASI Husan Lal submits that as per report of FSL, the sample of one vial taken from 11 injections was found to be that of 'Buprenorphine'. The total quantity of Buprenorphine as per description on the level of injections is 22 ml. which falls in commercial quantity.

Learned counsel for petitioner submits that as per FSL report weight of contents of sample was not measured at the time of conducting test. The police has taken the weight as per description on the slip pasted on the injections, which may not be authentic proof of actual weight of liquid in a vial.

The weight of contraband recovered from the petitioner will be an arguable point before the trial Court. The prosecution is alleging the recovery of 22 ml of contraband (Buprenorphine) from the petitioner while the contents of sample were not measured/weighed.

Keeping in view the above facts but without expressing any opinion on the merits of the case, the present petition is allowed. Petitioner Lakhvir Singh @ Lakhi is ordered to be released on regular bail on his furnishing bail bond and surety bond to the satisfaction of concerned Chief Judicial Magistrate/Duty Magistrate, subject to following terms:-

- a. The petitioner shall comply with the conditions mentioned in Section 437(3) Cr.P.C.
- b. In the event of his absence on any date of hearing, the benefit of bail allowed to the petitioner shall stand withdrawn. The trial Court shall be competent to cancel his bail bond and surety bond and proceed to procure his presence in accordance with law. In that eventuality the petitioner shall have to apply for

bail afresh.

- c. He shall not leave the country without the prior permission of the Court.

December 03, 2019
Jyoti-II

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*