

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

CRM M 11417 of 2020 (O&M)

Date of Decision:15.6.2020

Raj Kumar @ Laddi

... Petitioner

Versus

State of Punjab

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr.Munish Puri, Advocate for the petitioner.

Mr.Sandeep Vermani, Addl. A.G., Punjab

RAJIV NARAIN RAINA, J. (Oral)

1. The matter is taken up today through Video Conference/WhatsApp due to pandemic of COVID-19.

2. Notice of motion. On the asking of this Court, Mr.Sandeep Vermani, Addl.A.G., Punjab accepts notice on behalf of the State. Copy of the petition has already been supplied to the State in advance. Learned counsel for the State has sent custody certificate through WhatsApp/Email of the Court staff which is taken on record.

3. This petition has been filed under Section 439 Cr.P.C. for grant of bail pending trial in FIR No.213 dated 14.6.2019 under Section 22 of the NDPS Act, 1985 registered at P.S. Phillaur, District Jalandhar.

4. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present FIR. The allegation against the petitioner is regarding carrying of 104 injections i.e. 52 Buprenorphine injections. Learned counsel submits that as per proviso

to Rule 66 of the NDPS Act, an individual can possess 100 doses of Buprenorphine Hydrochloride. Moreover, Buprenorphine at Sr. 169 of the schedule of the NDPS Act is a debatable issue as to whether it is psychotropic substance or not. As regard to Avil having a salt pheniranmine Meleate which is neither Psychotropic substances nor narcotic drug. Learned counsel further submits that as per FSL report, each ML contains .28 mg/ml meaning thereby total recovery is of $.28 \times 2 \times 52 = 29.12$ mg. As per Section 2(xxiii), 2(xiv) and 2(xx) of the NDPS Act in case of mixture or solution containing neutral or non Psychotropic substance as well as narcotics and Psychotropic substances, only quantity of such narcotics and psychotropic substance present in such mixture or solution is to be taken into counting for the purpose of determining commercial quantity of such narcotics or psychotropic substance. In support of his submissions, learned counsel relies on the judgments of this Court Nitin Rajput @ Raman vs. State of Punjab 2019 (1) Law Herald 69, Karamjit Saingh vs. State of Haryana, 2019 (2) Law Herald 1191 and Raja Babu vs. State of U.T., 2019 (1) Law Herald 745 wherein in similar situations petitioners therein have been granted bail.

5. Learned counsel for the State has vehemently opposed the bail application of the petitioner. Learned counsel submits that it is a very serious offence. He further submits that there are two more FIRs registered against the petitioner and one of them is under the NDPS Act.

6. I have heard learned counsel for the parties and gone through the paper-book. Without expressing any opinion on the merits of the case/submissions of the learned counsel for the parties, I am of

the view that trial will take a long time to conclude. The petitioner is in judicial custody for the last about 1 year and no useful purpose would be served by keeping the petitioner behind the bars.

7. In view of the above, the petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail/surety bonds to the satisfaction of the trial court/Duty Magistrate.

15.6.2020
MFK

(RAJIV NARAIN RAINA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No