

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

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**CRM-M No.22719 of 2020
Date of decision:13.08.2020**

Amritpal Singh @ Shinda

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. R.D.Rattewal, Advocate for the petitioner.

Mr. Pawan Sharda, DAG, Punjab.

SUVIR SEHGAL J. (ORAL)

The hearing of this case has been taken up through video conferencing due to Covid-19 Pandemic.

This is the second petition filed by the petitioner, namely, Amritpal Singh @ Shinda for grant of regular bail under Section 439 Cr.P.C. in FIR No.41 dated 12.06.2019 registered under Sections 22 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'the NDPS Act') at Police Station Balachaur, District SPS Nagar.

As per the case of the prosecution, the petitioner was sitting on the pillion of a motorcycle which was being driven by the co-accused, namely, Pardeep Singh @ Baba, when they were intercepted by a police party. A heavy quantity of contraband was recovered from a heavy cloth

bag which they were carrying. The bag contained 80 injections of Buprenorphine and 80 injections of Avil. The contraband was seized and the petitioner was taken into custody on 12.06.2019. The petitioner is behind bars since then.

Counsel for the petitioner has submitted that the petitioner has been framed in a false case and FIR is a stereotype story which the police generally frame. He argues that out of the contraband recovered from the petitioner, Avil is a non-psychotropic substance and the quantity of Buprenorphine is non-commercial. According to the counsel, as the quantum recovered is less than commercial quantity, the petitioner is entitled to be released on bail. He submits that the petitioner is in incarceration for the last more than one year and the trial is likely to take long time to conclude.

Learned State counsel, upon instructions from ASI Kewal Krishan submits that the quantity of Buprenorphine recovered from the petitioner is commercial. He has referred to the report of Regional Testing Forensic Science Laboratory, Ludhiana, Annexure P-2 to argue that the laboratory had reported that the first parcel which was labelled as 'Bupine' contained 0.27 mg/ml average quantity of ingredient and parcel No.2 which was labelled as 'Avil' contained 21.18 mg/ml average quantity of ingredient. According to the State counsel, the total content of Buprenorphine in 80 injections of 2 ml each works out to 21.6 mg which falls in the category of commercial quantity. He submits that in any case, it is the entire quantity of the seized contraband has to be taken into consideration and not merely the pure drug content. Upon instructions, he

submits that charges have been framed on 13.12.2019 and the trial is underway.

I have considered the rival submissions.

From the records available, prima facie, it is apparent that the quantum of contraband seized from the petitioner falls in the category of commercial quantity within the provisions of the NDPS Act. Accordingly, the rigors of Section 37 of the NDPS Act are applicable and the petitioner is not entitled to grant of bail. Still further, the first petition for bail pending trial (CRM-M-54907-2019) filed by the petitioner was dismissed as withdrawn on 08.01.2020. The counsel for the petitioner has failed to point out any change in circumstances, in order to enable the petitioner to file the second petition. Without there being any change in the circumstances, the second application would be deemed to be seeking review of the earlier judgment, which is not permissible in criminal law, as it has been held by the Hon'ble Supreme Court in *Hari Singh Mann Vs. Harbhajan Singh Bajwa* (2001) 1 SCC 169 and in *State of Madhya Pradesh Vs. Kajad*, 2001 SCC (Criminal) 1520.

Accordingly, this second petition for bail of the petitioner/accused is dismissed.

It is clarified that any observation made above shall not be construed to be an opinion on the merits of the case.

13.08.2020

(SUVIR SEHGAL)

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JUDGE

Whether Speaking/Reasoned : Yes/No
Whether Reportable : Yes/No