

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

CRM-M-13614-2020

Date of Decision: 15.06.2020

Kishan

.....Petitioner

Vs.

State of U.T., Chandigarh

.....Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Ishan Sharma , Advocate,
for the petitioner.

Mr. Gautam Dutt, Addl. P.P., for U.T., Chandigarh.

AMOL RATTAN SINGH, J. (ORAL)

All cases listed today have been taken up for hearing by way of video conferencing because of the situation existing due to the COVID-19 pandemic.

This petition has been filed under the provisions of Section 439 of the Cr.P.C. for grant of 'regular bail' to the petitioner in case FIR no. 15 dated 16.01.2020, registered at Police Station Sector 39, Chandigarh, for the alleged commission of offences punishable under Section 22 of the NDPS Act.

Learned counsel for the petitioner submits that the petitioner has been in custody since 16.01.2020, with no prosecution witnesses examined so far.

He further submits that the quantity of contraband allegedly recovered from the petitioner (which the petitioner denies), is 11 injections of Buprenorphine, containing 2 ml each, i.e. a total of 22 milliliters, with the commercial quantity being above 20 milligrams and consequently, even if the prosecution case is taken at its face value, it is only marginally higher than such

commercial quantity.

He next submits that the other drug that is alleged to have been recovered from the petitioner, i.e. pheniramine maleate, does not fall within the purview of the NDPS Act, 1985.

Mr. Gautam Dutt, learned Addl. P.P., U.T., Chandigarh also very fairly submits that the NDPS Act does not include that drug as contraband, as has also been held by this court in Sudhakar @ Fauji vs. State of Punjab (CRM-M-6485 of 2019), decided on 12.03.2019.

Upon query to Mr. Dutt, he, while opposing the bail application on the ground that the quantity recovered actually falls within commercial quantity of contraband, even if it is marginally so, does not deny the period of custody or the fact that there is no other criminal case registered against the petitioner.

Keeping in view the above, without making any comment on the actual merits of the case for or against the petitioner, the petition is allowed. The petitioner shall be admitted to bail upon his furnishing adequate bail bonds and surety bonds to the satisfaction of the learned trial court/Chief Judicial Magistrate/Duty Magistrate, concerned.

June 15, 2020

nitin/dinesh

Whether speaking/reasoned
Whether Reportable

(AMOL RATTAN SINGH)

JUDGE

Yes
No.