

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

CRM-M-14443-2020 (O&M)

Date of Decision :24.06.2020

Jatinder Singh

...Petitioner

Versus

State of Punjab

...Respondent

Coram : Hon'ble Mr. Justice B.S.Walia

Present: Ms. Arti Kaur, Advocate for the petitioner.

Mr. Harpreet Singh Multani, DAG, Punjab.

B.S.WALIA, J. (VC)

CRM No.12739 of 2020

Allowed as prayed for.

CRM-M No.14443 of 2020

1. Case is being taken up for hearing through Video Conferencing due to the outbreak of pandemic Covid-19.
2. Prayer in the petition under Section 439 of Cr.P.C. is for grant of regular bail to the petitioner during the pendency of trial in case FIR No.0070 dated 04.09.2019, registered under Section 21/22 of the Narcotics Drugs and Psychotropic Substances Act, 1985, at Police Station Balachaur, District SBS Nagar.
3. Learned counsel for the petitioner contends that the recovery from the petitioner is of 11 injections of buprenorphine each measuring 02 ml besides 11 injections of avil each measuring 10 ml, thus total quantity of buprenorphine works out to 22 ml and that although commercial quantity is

above 20 ml and thus even if the prosecution case is taken at its face value, it is only marginally higher than the commercial quantity.

4. Learned counsel further contends that the other drug i.e. 11 injections of avil of 10 ml each do not constitute a narcotic drug. Learned counsel submits that as per the proviso to Rule 66 of 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 avil with salt pheniramine Meleate, the same is claimed to be neither a Psychotropic substances nor narcotic drug. Learned counsel relies upon the decision of a Coordinate Bench of this Court in CRM-M-13614 of 2020, in case titled as Krishan vs. UT Chandigarh as also CRM-M-11417 of 2020, in case titled as Raj Kumar @ Laddi v. State of Punjab.

5. Mr. Harpreet Singh Multani, DAG, Punjab, very fairly states that the quantity of buprenorphine recovered is marginally in excess i.e. 2 ml over and above the quantity fixed under the Act and that the drug avil does not constitute a narcotic substance and does not fall within the preview of NDPS Act. Learned DAG also does not deny that the petitioner is in custody since 04.09.2019 and that the case is fixed for evidence of prosecution for 07.07.2020 and out of thirteen witnesses, no witness has been examined till date and that the trial will take considerable period of time to conclude. Therefore, no useful purpose would be served by keeping the petitioner in custody especially in view of spread of pandemic Covid-19 situation in the country.

6. Keeping in view the position as noted above and without commenting anything on the merits of the case, the petition for bail is allowed. The petitioner is ordered to be released on bail subject to his furnishing adequate bail bonds to the satisfaction of the learned CJM/trial Court/Duty Magistrate concerned.

7. However, nothing stated hereinabove would be construed as an expression of opinion on the merits of the case.

(B.S.WALIA)
JUDGE

24.06.2020
amit/rajesh

Whether speaking/reasoned	: Yes/No
Whether reportable	: Yes/No