

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH
104 (PROCEEDINGS THROUGH V.C.)**

CRM-M-17418-2020 (O&M)

DATE OF DECISION: SEPTEMBER 29, 2020

Akash Kumar

.....Petitioner

VERSUS

State of U.T. Chandigarh

....Respondent

CORAM:- HON'BLE MR.JUSTICE AUGUSTINE GEORGE MASI

1. Whether Reporters of local papers may be allowed to see the judgement?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

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

Mr. Kuldeep Tiwari, Advocate,
Additional Public Prosecutor for U.T. Chandigarh.

AUGUSTINE GEORGE MASI, J. (ORAL)

Petitioner has approached this court for grant of regular bail in case FIR No.303, dated 18.12.2019 registered under Section 21 and 22 of the NDPS Act, 1985 at Police Station Sector 31, District Chandigarh (Annexure P-1).

It is the contention of learned counsel for the petitioner that recovery, which has been effected from the petitioner is 24.23 grams of buprenorphine injections and 50 grams of heroin. He contends that the commercial quantity of buprenorphine starts from 20 grams and the recovery is little higher than the minimum quantity fixed for commercial. Counsel also contends that the petitioner is in custody since 18.12.2019 and no witness has been examined till date. He further states that in the prevailing circumstances, the possibility of the trial proceeding in the matter is also bleak. He, therefore, prays that the petitioner be granted the

concession of bail.

On the other hand, learned counsel for U.T. Chandigarh has asserted that apart from the recovery of commercial quantity of buprenorphine, 50 grams of heroin has also been recovered from the petitioner. He asserts that there are five other FIRs registered against the petitioner. On a question being put by this Court, the counsel has very fairly stated that none of these cases are under the NDPS Act. The other factual aspects with regard to the non-examination of the witnesses in the trial as also the custody period have not been disputed.

Having considered the submissions made by counsel for the parties and keeping in view the fact that there is no other case registered or pending against the petitioner under the NDPS Act and the fact that the recovery, which has been effected from the petitioner is a bit higher than the minimum commercial quantity fixed for buprenorphine; with the trial not likely to proceed in near future, particularly because of the prevailing circumstances, the present petition is allowed.

The petitioner is directed to be released on bail to the satisfaction of the Trial Court/Chief Judicial Magistrate/Duty Magistrate, Chandigarh. It is, however, made clear that the petitioner shall be released on bail on heavy surety.

Any observation made hereinabove shall not be deemed to be an expression on the merits of the case.

September 29, 2020
khurmi

(AUGUSTINE GEORGE MASIH)
JUDGE

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