

CRM-M-17505-2019 (O&M)

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

**CRM-M-17505-2019 (O&M).
Decided on: February 25, 2020.**

Sarwan Kumar

.. Petitioner

VERSUS

State of Punjab

.. Respondent

*** * ***

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

*** * ***

**PRESENT Mr.Jatinder Pal Singh, Advocate,
for the petitioner.**

Mr.Sarabjit Singh Cheema, AAG, Punjab.

JASGURPREET SINGH PURI, J. (ORAL)

The present petition has been filed under Section 439 of the Code of Criminal Procedure (for short the 'Cr.P.C.'), seeking regular bail in FIR No.36 dated 14.02.2019, under Section 22/61 of the Narcotic Drugs and Psychotropic Substances Act, registered at Police Station, Khanna City-II, District Ludhiana.

Learned counsel for the petitioner has argued that the

CRM-M-17505-2019 (O&M)

petitioner has been wrongly involved in the present case and that the petitioner is totally innocent. He has further argued that even as per the FIR, the alleged contraband was not recovered from the petitioner. He has submitted that even no vehicle has been recovered by the police as on date and alleged recovery is of 100 injections Rexogesic and 100 bottles Avil injections. He has further argued that so far as 100 bottles of Avil injections are concerned, the same is not covered under the NDPS Act and so far as 100 injections Rexogesic are concerned, upto 100 injections could be retained for own use in view of Rule 66 of the NDPS Act. He has further submitted that the petitioner is in custody since 16.2.2019 and the charges have already been framed in the present case. He has further submitted that the petitioner is not involved in any other case as on today.

Per contra, learned State counsel submits that although 100 bottles of Avil injections would not be covered under the provisions of the NDSP Act, but so far as 100 injections Rexogesic are concerned, they are covered and recovery as per schedule of the Act is commercial. Learned State counsel further, on instructions from SI Vinod Kumar has submitted that 100 injections Rexogesic were recovered from the petitioner.

So far as custody period is concerned, the learned State counsel has not disputed the same and he has also not disputed the fact that the petitioner is not involved in any other case.

I have heard the learned counsel for the petitioner as well as learned State counsel and have gone through the record of the case.

CRM-M-17505-2019 (O&M)

So far as recovery of 100 bottles of Avil injections are concerned, the same is admittedly not covered under the NDPS Act but so far as 100 injections Rexogesic are concerned, although it is commercial quantity, but learned counsel for the petitioner has relied upon a Division Bench judgment of this Court in *Saleem Mohd. Vs. State of Punjab, 2015 (25) RCR (Crl.) 816*, to contend that in the present case Rule 66 of the NDPS Rules would be attracted and even if it is assumed that alleged recovery was effected from the petitioner even then, the petitioner can retain this quantity of 100 injections Rexogesic in case it is required for own use.

Considering the custody period of the petitioner since 16.02.2019 which is more than one year and the fact that charges have already been framed and admittedly the petitioner is not involved in any other case and the conclusion of trial may take long time, I deem it appropriate to admit the petitioner on bail. Consequently, the petition is allowed. It is ordered that the petitioner shall be released on bail on his furnishing bail bond/surety bond to the satisfaction of the trial Court.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant only for the purpose of decision of present petition.

February 25, 2020.
raj arora

(JASGURPREET SINGH PURI)
JUDGE

Whether speaking / reasoned
Whether reportable

Yes / No
Yes / No