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

CRM-M No. 20551 of 2020
Date of Decision: 12.10.2020

Hardeep Kumar

-Petitioner

Vs

State of Punjab

-Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

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

Mr. Harbir Sandhu, A.A.G., Punjab.

RAJ MOHAN SINGH, J. (ORAL)

The case has been taken up for hearing through video-conferencing.

Petitioner seeks grant of regular bail under Section 439 Cr.P.C. in case bearing FIR No.01 dated 05.01.2020 under Section 22 of NDPS Act registered at Police Station Sadar Nawanshaher, District SBS Nagar.

As per prosecution case, 12 injections of Buprenorphine each containing 2 ml were allegedly recovered from the petitioner.

As per FSL report, the ingredients were found to be Buprenorphine Hydrochloride. Total quantity recovered is 24 ml.

Learned counsel for the petitioner submits that the contraband beyond 20 grams would be commercial in nature. In order to calculate weight of the contraband in grams, the density of the contraband has to be multiplied by volume and that would be the weight in grams of the contraband. The FSL report is silent with regard to density of the contraband.

Even the alleged recovery of 24 grams would be marginally in excess of the quantity prescribed for commercial quantity.

Learned counsel relies upon **Shinda vs State of Punjab, 2013(3) RCR (Criminal) 557** and **Lakhwinder Singh @ Bittu vs State of Punjab, 2012(22) RCR (Criminal) 301** and further contended that the quantity recovered from the petitioner is marginally in excess of commercial quantity.

Per contra, learned State counsel submits that the petitioner is having antecedent behaviour of criminal activity as he is involved in 09 other cases. He has been convicted in 05 cases and in 04 cases, he has been acquitted.

Learned counsel for the petitioner controverts the aforesaid argument on the ground that in all the 05 cases, petitioner is not in custody. In some of the cases, he has already undergone the sentence. As of now, he is not in custody in any case.

Complicity of the petitioner would remain debatable as to the exact weight of the contraband recovered from the petitioner.

Owing to the situation arising out of pandemic COVID-19 and without meaning anything on the merits of the case, the petition is allowed. Petitioner is directed to be released on regular bail, subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of trial Court/concerned Duty Magistrate.

Nothing expressed hereinabove would be construed to be an opinion on the merits of the case.

12.10.2020
Jyoti Sharma

(RAJ MOHAN SINGH)
JUDGE

1. Whether speaking/reasoned : Yes/No
2. Whether reportable : Yes/No