

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

CRM M-21239 of 2020 (O&M)

Date of Decision: August 13, 2020

Jasvir Kumar @ Bhikha

.....Petitioner

Versus

State of Punjab

.... Respondent

CORAM : HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present : Mr. Raj Kumar Gupta, Advocate
for the petitioner.

Mr. J.S. Ghumman, DAG, Punjab.

FATEH DEEP SINGH, J. (Oral)

The matter has been taken up through video-conferencing on account of outbreak of pandemic COVID-19.

Petitioner Jasvir Kumar @ Bhikha has come in this first regular bail application moved under Section 439 Cr.P.C. in FIR No. 65 dated 09.10.2019 under Section 22 of NDPS Act 1985 registered at Police Station City Balachaur, District S.B.S. Nagar.

Petitioner Jasvir Kumar @ Bhikha is accused of being found in illegal possession of 100 vials of intoxicating injections opined to be buprenorphine hydrochloride while going near New Bus Stand Balachaur on 09th October 2019.

Mr. Raj Kumar Gupta, learned counsel for the petitioner has sought to argue that under Rule 66 of the Narcotic Drugs Substances and Psychotropic Rules, 1985 being a psychotropic patient the petitioner was not required to have any authorization. He further submits that the petitioner is in custody for more than 10 months and has sought to place reliance on Appeal (Crl.) 1022 of 1997 Sajan Abraham Vs. State of Kerla, decided on 26.02.2004 by the Hon'ble Kerla High Court and on CRM M 5207 of 2014 (O&M) Saleem Mohd Vs. State of Punjab decided on 04.11.2015 by this Court.

Mr. J.S. Ghumman, DAG, Punjab learned State counsel has opposed the bail on the grounds that accused is found in possession of commercial quantity of substance without authorization though accepts that there is no history of other similar case against him. Section 66 of the Rules is reproduced as below to lay emphasis:-

66. Possession, etc., of psychotropic substances.-3[(1) No person shall possess any psychotropic substance for any of the purposes covered under 1945 rules, unless he is lawfully

authorized to possess such substance for any of the said purposes under these rules:

Provided that possession of a psychotropic substance specified in Schedule I shall be only for the purposes mentioned in chapter VIIA.

(2) Notwithstanding anything contained in sub-rule (1), any research institution or a hospital or dispensary maintained or supported by Government or local body or by charity or voluntary subscription, which is not authorised to possess any psychotropic substance under the 1945 Rules, or any Person who is not so authorised under the 1945 Rules, may possess a reasonable quantity of such substance as may be necessary for their genuine scientific requirements or genuine medical requirements, or both for such period as is deemed necessary by the said research institution or, as the case may be, the said hospital or dispensary or person;

Provided that where such psychotropic substance is in possession of an individual for his personal medical use the quantity thereof shall not exceed one hundred dosage units at a time:

[Provided further that an individual may possess the quantity of exceeding one hundred dosage units at a

time 2[but not exceeding- three hundred dosage units at a time] for his personal long term medical use if specifically prescribed by a Registered Medical Practitioner]

(3) The research institution, hospital and dispensary referred to in sub-rule (2) shall maintain proper accounts and records in relation to the purchase and consumption of the psychotropic substance in their possession'

It clearly provides that even an individual can possess the quantity not exceeding 100 doses/units at a time for his personal medical use if specially prescribed by registered medical practitioner though Mr. Gupta has sought to lay claim of medical necessity of the petitioner but nothing tangible has been shown to the Court or placed on the record in this regard that it was medical necessity for the petitioner. Even to the query of the Court Mr. Gupta could not convince by what means the petitioner requires the same. Reading between the lines of these provisions so cited at the bar by Mr. Gupta, makes it obvious that this Rule permits a person to possess this psychotropic substance within limit specified subject to the condition as has been prescribed in this rule and therefore to the mind of this Court in the absence of any tangible evidence is violation of the provisions of the law and which cannot be

interpreted so loosely so as to deviate from the purpose of such a provision, which is enacted to curb such a menace of such dangerous life threatening drugs which are ruining many a precious lives, thus, finding no merits, the present petition is dismissed.

August 13, 2020

amit rana

(FATEH DEEP SINGH)

JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No