

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-25601-2020
Date of Decision: 11.09.2020

Sarabjit Singh @ Sunny

....Petitioner

Versus

State of Union Territory, Chandigarh

.....Respondents

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Mohit Garg, Advocate,
for the petitioner.

Mr. A.M. Punchhi, Public Prosecutor,
for U.T., Chandigarh.

KARAMJIT SINGH, J. (Oral)

Case has been heard through video conferencing on account
of COVID-19 Pandemic.

Through this petition, the petitioner has sought regular bail
in a case having FIR No.288, registered at Police Station Sector 39, U.T.
Chandigarh, under Section 22 of the NDPS Act.

As per the prosecution version, the petitioner was found in
possession of 12 injections of Buprenorphine (2 ml each) without any
licence or permit on 27.08.2019.

Learned counsel for the petitioner has contended that it is a
moot point as to whether recovery of aforesaid injections of
Buprenorphine is covered under the NDPS Act or the Drugs and
Cosmetics Act. It is submitted that this controversy has already been

referred to the Larger Bench of the this Court in 2018 and the matter is still pending.

Learned counsel for the petitioner has further argued that even otherwise, the alleged recovery of 12 injections of Buprenorphine is marginally above the commercial quantity. Learned counsel for the petitioner while relying on the judgment rendered by this Court in **Dinesh Kumar @ Binny Vs. State of Union Territory, Chandigarh** having CRM-M-15580-2020 decided on 02.07.2020, has contended that the petitioner deserves regular bail in the present case.

On the other hand, learned counsel for the U.T., Chandigarh has contended that it being the case of recovery of commercial quantity of contraband, the strict provisions of Section 37 of the NDPS Act will be applicable in this case. It is further pleaded that the bail application deserves to be dismissed.

I have considered the submissions made by the learned counsel for the parties.

As per the case of the prosecution, 12 injections of Buprenorphine (2 ml each) were recovered from the possession of the petitioner on 27.08.2019. As per the custody certificate of the petitioner, he is in custody for the last 01 year and 15 days. No other case under the NDPS Act is pending against him. It has been admitted by the learned counsel for the respondent that the question as to whether recovery of injections of Buprenorphine is covered under the NDPS Act or the Drugs and Cosmetics Act, has already been referred to the Larger Bench of this Court in CRM-M-28002-2018 titled as Anil Kumar @ Nehla Vs. State of

Punjab on 01.10.2018. The said matter is yet to be adjudicated by the Larger Bench. In Dinesh Kumar's case (supra), the accused was granted regular bail in a case involving recovery of 12 injections of Buprenorphine of 2 ml. each, while observing that the recovery was marginally above the commercial quantity.

In the present case, the petitioner has been in custody since last 01 year. The trial is not progressing due to prevailing Covid-19 pandemic. So, no useful purpose would be served by keeping the petitioner behind the bars.

In the light of the above, without commenting anything on the merits of the case, this petition is allowed and the petitioner is ordered to be released on regular bail on his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate, Chandigarh.

(KARAMJIT SINGH)
JUDGE

11.09.2020

adhikari

Whether speaking/non-speaking	:	Yes/No
Whether reportable	:	Yes/No