

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-M-29874-2020

Date of Decision: 30.9.2020

Rajender Singh @ Rajinder Singh

....Petitioner

VERSUS

Union Territory, Chandigarh

....Respondent

CORAM:- HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Vivek Kathuria, Advocate
for the petitioner (s).

Mr. A.M.Punchhi, PP for UT, Chandigarh.

KARAMJIT SINGH, J.(Oral)

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

The present petition has been filed under Section 439 Code of
Criminal Procedure for grant of regular bail to the petitioner in case FIR
No.37 dated 16.3.2020 registered for the offences punishable under Sections
22 of NDPS Act at Police Station Mauli Jagran, Chandigarh.

Heard.

As per prosecution version, the petitioner was found in
possession of 11 injections of Buprenorphine of 2 ml each and 10 injections
of Pheniramine Maleate of 10 ML each on 16.3.2020, without any licence or
permit.

Learned counsel for the petitioner has submitted that it is
debatable as to whether recovery of 11 injections of Buprenorphine is
covered under NDPS Act or Drugs and Cosmetics Act. It is brought to the

bench of 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 11 injections of Buprenorphine is marginally above the commercial quantity and on this sole ground, the petitioner is entitled to bail. In support of his argument, learned counsel for the petitioner has relied on the judgment rendered by this Court in **Sarabjit Singh @ Sunny v. State of U.T., Chandigarh** having CRM-M-25601-2020 decided on 11.9.2020 and decision dated 14.2.2019 of the Coordinate Bench of this Court in CRM-M-3328-2019; **Nishant Jain v. UT, Chandigarh**.

Learned counsel for the petitioner has further prayed for bail even on the ground that father of the petitioner is seriously ill and is suffering from respiratory problem. It is further contended that trial is not progressing due to prevalent Pandemic.

On the other hand, learned counsel for UT, Chandigarh has contended that strict provisions of Section 37 of NDPS Act are applicable, it being the case of recovery of commercial quantity of contraband. It is further contended that the bail application be dismissed.

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

Admittedly, recovery of 10 injections of Pheniramine Maleate of 10 ML each is not covered under the NDPS Act.

As per the case of the prosecution, 11 injections of Buprenorphine 2 ML each were also recovered from the possession of the petitioner on 16.3.2020. As per custody certificate, the petitioner is already

NDPS Act is presently 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 NDPS Act or Drugs and Cosmetics Act has already been referred to the larger Bench of this Court in CRM-M-28002-2018; **Anil Kumar @ Nehla v. State of Punjab**; on 1.10.2018. The said issue has not been decided so far. In Sarabjit Singh @ Sunny's case (supra), the accused was granted regular bail in case involving 12 injections of Buprenorphine of 2ML each while observing that the recovery was marginally above the commercial quantity. In Nishant Jain's case (supra), the Coordinate Bench of this Court granted regular bail in case of recovery of 12 injections of Buprenorphine of 2ML each to the accused, who remained in custody for a period of about 5 months.

In the present case, the trial is not progressing due to prevailing Covid-19 situation. The petitioner has been in custody since 16.3.2020. In the given circumstances, no useful purpose would be served by keeping the petitioner in custody for any longer period.

In view 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/surety bonds to the satisfaction of the learned trial Court/CJM/Duty Magistrate, Chandigarh.

September 30, 2020

Paritosh Kumar

**(KARAMJIT SINGH)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No