

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

**CRM-M No.42122 of 2019 (O&M)
Date of Decision:25.02.2020**

Rakesh Kumar

... Petitioner

Versus

State of Punjab

... Respondent

CORAM:- HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Subhash Kumar, Advocate,
for the petitioner.

Mr. Sarabjit Singh Cheema, AAG, Punjab
for the State.

JASGURPREET SINGH PURI, J. (ORAL)

The present petition has been filed under Section 439 of the Code of Criminal Procedure for the grant of regular bail in FIR No.148 dated 17.08.2018 under Section 22 of the NDPS Act, 1985, registered at Police Station Division No.1, Police Commissionerate, District Jalandhar.

Learned counsel for the petitioner has submitted that in the present case, the petitioner is in custody since 17.08.2018 and out of 09 witnesses, only 04 have been examined till date. He has further submitted that even otherwise, the alleged recovery from the petitioner was 70 injections of Pheniramine Maleate 10 ml Avil and 70 injections of Buprenorphine Rexogesic 2 ml each. He has further submitted that even if the allegations against the petitioner are taken to be true, the injection of

Avil does not fall within the purview of the NDPS Act and insofar as, the alleged recovery of 70 injections of Buprenorphine Rexogesic 2 ml each is concerned, he has relied upon the judgement of this Court in Salem Mohd Vs. State of Punjab, 2015 (25) RCR (Criminal) 816, to contend that in view of Rule 66 of the NDPS Rules, 1985, any person can retain upto 100 injections of Buprenorphine Rexogesic 2 ml each in case it is required for own use and, therefore, he has prayed for the grant of the concession of regular bail to the petitioner.

Learned State counsel, on instructions from Mr. ASI Rakesh Kumar, has stated that it is correct that the petitioner is in custody since 17.08.2018 and out of 09 witnesses, only 04 have been examined so far. He has further stated that insofar as the alleged recovery of 70 injections of Avil is concerned, it is not covered under the NDPS Act, but the alleged recovery of 70 injections of Buprenorphine Rexogesic 2 ml each, is of commercial in nature and, therefore, the petitioner is not entitled to the grant of concession of regular bail.

I have heard learned counsel for the parties and perused the record.

In the present case, the alleged recovery of 70 injections of Pheniramine Maleate 10 ml Avil is not covered under the NDPS Act. Insofar as, the recovery of 70 injections of Buprenorphine Rexogesic 2 ml each is concerned, although, it is commercial in nature, but in view of the law laid down by this Court in **Saleem Mohd's** case (supra), the petitioner would be certainly entitled to the grant of concession of regular bail at this

stage. Even otherwise, it is not the case of the State that in case, bail is granted to the petitioner, there is likelihood of his tampering with the evidence or influence the witnesses. The trial of the case has started and may take some time for final decision. Therefore, I deem it fit to admit the petitioner to regular bail.

In view of the above, the present 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.

(JASGURPREET SINGH PURI)
JUDGE

25.02.2020
sk

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No