

Sr. No.209

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

**CRM-M-43257 of 2019 (O&M)
DATE OF DECISION : 30.09.2020**

Rohin

...Petitioner

Versus

State of U.T. Chandigarh

...Respondent

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. D.S. Sandhu, Advocate,
for the petitioner.

Mr.Sumit Jain, Addl. Public Prosecutor, U.T. Chandigarh.
(Presence marked through video conference)

ARUN MONGA, J. (ORAL)

1. Petitioner seeks regular bail in FIR No.212 dated 15.07.2019, registered under Section 22 of Narcotic Drugs and Psychotropic Substances Act, Police Station Sector 39, Chandigarh.
2. Per FIR, on 15.07.2019, petitioner was apprehended, having in his possession, 15 injections of Buprenorphine (2 ml) and 15 injections of Pheniramine Maleate (10 ml).
3. Learned counsel for the petitioner contends that petitioner is not involved in any other case and he is in custody for more than 1 year and 02 months. According to him, there is violation of mandatory provisions of NDPS Act.
4. He further submits that as per proviso to Section 66(ii) of the NDPS Rules 1985, 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. He relies on judgment passed by a Division Bench of this Court titled SaleemMohdVs State of Punjab, CRM M 16868 of 2018 decided on 04.07.2018 , reported as 2015 (2) RCR CrI. 816, wherein bail was granted to the petitioner therein in somewhat similar circumstances.

5. He further submits that. as per allegations, petitioner was found to be in possession of 15 injections of Pheniramine Maleate. As per the NDPS Act the same is a non-psychotropic substance and is not covered under the NDPS Act. However, Buprenorphine is a psychotropic substance and first proviso to Rule 66(ii) of NDPS Rules 1985 favours the petitioner. It would a moot point during trial whether the petitioner had kept the same for medicinal purposes, contends learned counsel for the petitioner.

6. Learned Public Prosecutor representing U.T. Chandigarh, on the other hand, opposes the bail plea. He, however, admits that petitioner is not involved in any other case and presently there is any headway in trial due to Covid-19 pandemic.

7. The veracity of above submissions made by learned counsel for the petitioner shall be adjudged at the trial, which is presently held up due to Covid-19 pandemic. There is no likelihood of commencement or conclusion thereof anytime soon. Courts are currently working with restrictions due to Covid-19 pandemic and are taking up only urgent matters. The petitioner is not involved in any other case. He is in custody for the past about 1 year and 02 months. The witnesses are official and thus, there is no occasion with the petitioner to influence or put pressure upon them. Accordingly, given the over all scenario and keeping in view case of Saleem Mohd. Case(supra), I am of

the opinion that no useful purpose would be served by keeping petitioner in custody any more.

8. In the premise, without expressing any opinion on the merits of the case, at this juncture, the petitioner is admitted to bail on his furnishing bail bonds and surety bonds to the satisfaction of concerned Chief Judicial Magistrate/ Duty Magistrate, as the case may be. If while on bail petitioner is involved in any other case, the prosecution shall be at liberty to seek cancellation of bail granted to him.

9. Petition stands allowed accordingly.

September 30, 2020
Jiten

(ARUN MONGA)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No