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

**CRM-M No.3155 of 2020(O&M)
Date of Decision: 08.10.2021**

**Mukesh Kumar @ Kaka
Vs
State of Punjab**

**.....Petitioner
.....Respondent**

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Monty Goyal, Advocate
for the petitioner.

Mr. H.S Sullar, DAG, Punjab.

RAJ MOHAN SINGH, J.(Oral)

Petitioner seeks grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.0087 dated 31.08.2019 registered under Section 22 of the NDPS Act at Police Station Sadar Nawanshahr, District SBS Nagar.

As per allegations, 25 injections of Buprenorphine Hydrochloride 2 ML each and 5 vials of Avil 10 ML each were recovered from the petitioner.

Learned counsel for the petitioner submits that the petitioner is in custody since 31.08.2019. As per interpretation attached to Rule 66 of Narcotic Drugs and Psychotropic Substances Rules of 1985, a person can possess 100 doses of

such like psychotropic substance even without medical prescription. Learned counsel refers to **CRM-M No.5207 of 2014** titled **Saleem Mohd. Vs. State of Punjab** decided on 04.11.2015 by the Division Bench of this Court and **CRM-M No.13312 of 2020** titled **Sukhwinder Singh @ Vicky Vs. State of Punjab** decided on 10.11.2020 to contend that even in case of 70 injections of Buprenorphine Rexogesic 02 ml each, bail was granted by this Court after considering the interpretation attached to Rule 66 of 1985 Rules and precedents on the subject.

On 26.03.2021, learned State counsel submitted before the Court that in addition to the present case, petitioner is also involved in four other criminal cases. The aforesaid fact was denied by the learned counsel for the petitioner. According to the learned counsel for the petitioner, the petitioner is not involved in any other case. Custody certificate dated 28.09.2021 filed by the learned State counsel does not show involvement of the petitioner in any other case, however, as per status report filed by way of affidavit of Davinder Singh, PPS, Deputy Superintendent of Police, Nawanshahr, the petitioner is shown to have been involved in five other cases as per para No.7 of the status report. Vide order dated 28.09.2021, SSP, SBS Nagar, Nawanshahr was directed to submit a fact finding report.

In pursuance of the aforesaid order, status report has been submitted by way of affidavit of Harmanbir Singh Gill, IPS, Senior Superintendent of Police, SBS Nagar, District SBS Nagar, wherein it has been admitted in para No.7 that the petitioner is not involved in any other case. The status report has been taken on record. Para No.7 of the aforesaid status report is reproduced hereasunder:-

“7. That it is respectfully submitted that from the verification of the record regarding the petitioner, it has been found that apart from the instant FIR, in which the petitioner is seeking bail, the petitioner is not involved in other FIR/criminal case. However, Sh. Davinder Singh, PPS, Deputy Superintendent of Police, Sub-Division Nawanshahar, while submitting Status Report in the present petition, found negligent and ASI Darshan Lal, who initially attended the hearing of the present petition before this Hon'ble Court, is found negligent while attaching a slip with the police file showing the petitioner-Mukesh Kumar @ Kaka involved in four cases, as such after considering the fact finding report of Superintendent of Police (Investigation), SBS Nagar, the answering respondent has ordered to initiate regular department inquiry against ASI Darshan Lal vide order No.2700-2707 dated 05.10.2021 and Sh. Pirthipal Singh, PPS, Superintendent of Police, (PBI & N) SBSN has been appointed as inquiry officer. It is further submitted that recommendation has also been made to Director General of Police, Punjab, to write to

the Department of Home Affairs and Justice, Government of Punjab, to initiate regular departmental inquiry against Sh. Davinder Singh, PPS, Deputy Superintendent of Police, Sub-Division Nawanshahar, vide letter No.90147 dated 05.10.2021. In view of the facts and circumstances mentioned hereinabove, the present petition may kindly be disposed of in accordance with law.”

Evidently, some departmental action has been proposed and taken against erring police officers.

In view of aforesaid position and without meaning anything on the merits of the case, I deem it appropriate to enlarge the petitioner on regular bail.

In view of above, petition is allowed. Petitioner is ordered to be released on regular bail, subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of the trial Court/concerned Duty Magistrate.

Nothing expressed hereinabove would be construed to be an expression of any opinion on merits of the case.

(RAJ MOHAN SINGH)
JUDGE

08.10.2021

Prince

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No