

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-9229-2020 (O&M)
Date of Decision:-22.11.2021

Mintu Mandal ... Petitioner

Versus

State of Punjab ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

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

Mr. Harbir Sandhu, AAG, Punjab,
assisted by ASI Jaigopal.

(proceedings conducted through video conferencing)

GURVINDER SINGH GILL, J.(Oral)

1. The petitioner has approached this Court seeking grant of regular bail in respect of a case registered vide FIR No.239 dated 1.7.2019 at Police Station Phillaur, District Jalandhar (Rural) under Section 22 of Narcotic Drugs & Psychotropic Substances Act.
2. As per the case of prosecution, on 1.7.2019 when a police party was patrolling in the area of Village Garha, then a young person was noticed coming on foot, who upon seeing the police party immediately turned back. The said young person was carrying a black coloured polythene bag in his hand. The police apprehended the said person, who upon inquiry disclosed

his name as Mintu Mandal. The search of the bag carried by Mintu Mandal led to recovery of 11 injections of 'Avil-10' and 12 injections of 'Leegestic', 2 ml. each (containing Buprenorphine Hydrochloride) were recovered.

3. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in the present case and that, in any case, the alleged recovery i.e. 12 injections of 'Leegestic' of 2 ml. each would weigh 21.6 grams of Buprenorphine Hydrochloride, which is marginally above the commercial quantity and since the petitioner has been behind bars for a substantial period i.e. 2 years, 4 months and 18 days, the petitioner deserves the concession of bail.
4. Opposing the petition, learned State counsel has submitted that since the recovery, in the instant case, of Buprenorphine Hydrochloride would fall in the category of 'commercial quantity' and for the possession of which the petitioner could not justify any explanation, no case for grant of bail is made out.
5. I have considered rival submissions addressed before this Court.
6. It is a case where the petitioner was caught while in possession of 12 injections of 'Leegestic' of 2 ml. each containing Buprenorphine Hydrochloride and the total weight of the said contraband is stated to be 21.6 grams, which would fall in the category of 'commercial quantity' attracting provisions of Section 37 of NDPS Act. At this stage, there is nothing on record to show that the accused has been falsely implicated or that he had not committed any offence or that in case released on bail he will not indulge in any such offence again. Hon'ble Apex Court in a recent judgment i.e. 2020(1) RCR(Criminal) 818 State of Kerala vs. Rajesh Kumar has reiterated

the legal position as regards the limitations imposed by Section 37 of the Act and has further held that a liberal approach in matters of bail in offences under NDPS Act is uncalled for. There is nothing on record, at this stage, from which it could be inferred that the petitioner is not guilty of the offence in question. The petition is found to be sans merit and is hereby dismissed.

22.11.2021

pankaj

**(Gurvinder Singh Gill)
Judge**

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No