

231.

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

CRM-M-13298-2021

Date of decision: 26.03.2021.

BAHADUR SINGH @ BAHADHER SINGH

... Petitioner

Versus

STATE OF PUNJAB

.... Respondent

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Piyush Khanna, Advocate,
for the petitioner.

Mr. Ramandeep Sandhu, Senior DAG, Punjab.

HARI PAL VERMA, J. (Oral)

The matter has been taken up for hearing through video conferencing due to outbreak of COVID-19.

Prayer in the present petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in case FIR No.0030 dated 29.03.2019 registered under Section 22 of NDPS Act at Police Station Mahilpur, District Hoshiarpur.

Learned counsel for the petitioner has argued that the recovered quantity is non-commercial as the recovery of 10 bottles of Buprenorphine contains 2 ML each and in this manner, total quantity comes to 20 ML. Though 10 large bottles of Pheniramine Maleate IP injections weighing 10 ML each were also recovered in the case, but that does not fall under the

provisions of NDPS Act. Thus, the remaining contraband i.e. Buprenorphine does not fall under the commercial quantity as defined under Section 2 and 2(vii-a) of NDPS Act. He submits that the total content in respect of 10 injections would come to $10 \times 2 \times 0.27 \text{ mg/ml} = 0.0054 \text{ grams}$ which is far below the commercial quantity of 20 grams. Petitioner is in custody since 29.03.2019.

He has relied upon judgment dated 09.12.2020 passed by this Court in ***CRM-M-27347-2020*** titled as ***Labh Singh @ Labha Versus State of Punjab***, ***CRM-M-613-2018*** titled as ***Iqbal Singh alias Kala Versus State of Punjab***, dated 12.02.2018 and ***CRM-M-8320-2019*** titled as ***Amritpal Singh alias Billu Versus State of Punjab***, dated 07.05.2019. In the case of ***Amritpal Singh (supra)*** and ***Iqbal Singh alais Kala (supra)***, 30 intoxicant injections of Buprenorphine containing 2 ML each were recovered from the accused and both these accused were admitted on bail by this Court. He has further argued that even Section 50 of NDPS Act has not been complied with, as though the recovery was effected from a public place, but no independent witness has joined.

Learned State counsel has not disputed the custody. However, he submits that the petitioner has been convicted in the year 2009 for having found in possession of 150 capsules containing narcotic substance.

I have heard learned counsel for the parties.

Petitioner is in custody since 29.03.2019 and in this manner, he is in custody for about 2 years. The recovery in the present case is 10 bottles of Buprenorphine, weighing 20 ml.

Considering the judgments passed by this Court in the case of *Amritpal Singh (supra)* and *Iqbal Singh alais Kala (supra)*, this Court deems it appropriate to admit the petitioner on bail.

Accordingly, the present petition is allowed and the petitioner is admitted on regular bail subject to his furnishing bail bonds/surety bonds to the satisfaction of trial Court/Duty Magistrate.

It is made clear that in case the petitioner is found indulged in any other case, the prosecution shall be at liberty to seek cancellation of his bail.

The observations made hereinabove shall not be construed as an expression on the merits of the case and the trial court shall decide the case on the basis of available material.

(HARI PAL VERMA)
JUDGE

26.03.2021
sanjeev

Whether speaking/reasoned
Whether Reportable:

Yes/No.
Yes/No.