

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

207

CRM-M-16583-2021

Date of Decision : July 26, 2021

VARINDER KUMAR

.....Petitioner

VERSUS

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present : Mr. Sanjeev K. Virk, Advocate
for the petitioner.

Mr. Randhir Singh Thind, DAG, Punjab.

Through Video Conferencing

JASGURPREET SINGH PURI. J. (Oral)

The present petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No. 76 dated 28.4.2019 under Section 26/61/85 of NDPS Act, 1985, Police Station Goraya, District Jalandhar.

The learned counsel for the petitioner has submitted that as per the FIR there was a recovery of 95 injections of Buprenorphine and 98 injections of Avil and the petitioner has been going incarnation for about two years and three months and there is no other case against him. He has submitted that one witness out of the total ten has already been examined and no useful purpose will be served by further putting him in custody. He has further submitted that 98 injections of Avil are not covered under the schedule of the NDPS Act and so far as 95 injections of Buprenorphine are concerned, the same were recovered from the two

persons i.e. the present petitioner and other co-accused, namely, Atma Ram who has already been granted bail by this Court. He has further submitted that 95 injections of Avil are for his personal consumption and in view of the law laid down by this Court in Sukhwinder Singh @ Vicky Vs. State of Punjab, CRM-M-13312 of 2020, the bar contained in Section 37 of the NDPS Act would not be attracted in the present case.

On the other hand, Mr. Thind, DAG, Punjab has submitted that it is correct that the petitioner is in custody for about two years and three months and one witness has already been examined. He has further submitted that the alleged recovery was of commercial nature. He has not disputed that the other co-accused, namely, Atma Ram has already been granted bail by this Court on 28.5.2020. Mr. Thind, learned DAG, Punjab has stated that the petitioner is involved in one other case which is under Section 379 IPC.

I have heard learned counsels for the parties.

The petitioner is in custody since two years and three months and one witness out of ten has already been examined. It is also not disputed that the petitioner is although involved in one other case under Section 379 IPC but he is not involved in any case pertaining to NDPS Act. So far as the application of Section 37 of the NDPS Act is concerned, since it is a case of the petitioner that the injections were to be used for personal use, the case of the petitioner would be covered by the judgment of this Court in Sukhwinder Singh's case (Supra) and, therefore, the bar contained in Section 37 of the NDPS Act would not be applicable in the present case.

In view of the above, the present petition is allowed. The petitioner is ordered to be released on bail on his furnishing of bail bonds and surety bonds to the satisfaction of concerned Chief Judicial Magistrate/Duty Magistrate.

July 26, 2021
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(JASGURPREET SINGH PURI)
JUDGE

Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No