

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-18198 OF 2021
Date of Decision: 19.05.2021

Gurjot Singh @ Joti

..Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present : Ms. Rajvinder Kaur, Advocate
for the petitioner.

Mr. S.S. Deol, D.A.G., Punjab.

(Presence marked through video conference).

ARUN MONGA, J. (ORAL)

The petitioner is seeking regular bail in case FIR No.12 dated 05.02.2021 registered under Sections 22/61/85 of the Narcotics Drugs and Psychotropic Substances Act, 1985 registered at Police Station Mulepur, District Fatehgarh Sahib.

Learned counsel for the petitioner, *inter alia*, contends that the petitioner, a young 23 years daily wager and is the sole bread winner of the family. He has been falsely implicated in the FIR in question. She submits that the same is borne out from the manner in which the FIR has been registered, allegedly on the basis of a secret information without their being any witnesses either of gazetted officer or otherwise while making the alleged recovery of contraband. The said contraband, in any case, is a prescription medicine and marginally higher than the permitted non-commercial quantity, is the contention. She submits that the alleged contraband is 12 injections of “*Buprenorphine IP Omgesic GM*” of 2 ML

each along with 12 injections of “*Avil*” of 10 ML. Learned counsel further argues that the Investigating Officer in the FIR in question, is the same person who allegedly received the secret information and therefore, he could not have assigned the investigation to his own self. The investigation ought to have been assigned to an independent investigating officer. She further contends that the rigors of Section 37 of the NDPS Act are since not strictly attracted in the present case, the petitioner ought to be granted the concession of bail at this stage. Learned counsel contends that the petitioner has been in custody since 08.02.2021 and is currently lodged in judicial lockup and is not required further for the purpose of investigation.

Learned State counsel, on Court query, does not controvert that the quantity is marginally higher than the non-commercial quantity.

Having heard the learned counsel for the petitioner as well as the learned State counsel, I am of the view that the petitioner is entitled to be released on bail. As regards the veracity of arguments of the learned counsel for the petitioner as noted above, the same are matter of trial, the commencement of which, due to the current pandemic scenario is likely to get delayed. Courts are also currently working under restrictions.

The challan is stated to be under preparation and is likely to be filed soon before the trial Court. In view thereof, the petitioner is not required for any further investigation. I am of the view that no useful purpose would be served by keeping the petitioner in further preventive custody. The petition is allowed.

Accordingly, petitioner shall be released on bail on his furnishing bail bonds and surety bonds to the satisfaction of concerned Chief Judicial Magistrate/Duty Magistrate, as the case may be.

It is, however, made clear that in case the petitioner is found involved in any other case of similar nature while on bail, the prosecution shall be at liberty to seek cancellation of his bail.

May 19th, 2021
gurpreet

(ARUN MONGA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No