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

CRM-M No. 33961 of 2019
Date of Decision: 15.09.2021

Pawan Kumar @ Lucky

-Petitioner

Versus

State of Punjab

-Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Swarn Tiwana, Advocate,
for the petitioner.

Mr. Amar Ashok Pathak, Addl. A.G., Punjab.

RAJ MOHAN SINGH, J. (Oral)

Petitioner seeks grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.37 dated 16.02.2019 registered under Section 22 of NDPS Act at Police Station Gobindgarh Mandi, District Fatehgarh Sahib, Punjab.

As per allegations, petitioner along with co-accused Harinder Singh @ Happy was arrested and from their common conscious possession, 48-48 injections of Buprenorphine each containing 02 ml were recovered. Total quantity recovered from the petitioner is alleged to be 96 ml and considering the same to be commercial in nature, bail was declined to the petitioner.

Learned counsel for the petitioner submits that the petitioner is in custody since 18.12.2019 and his total custody comes out to be 02 years, 06 months and 26 days as on date. As per the custody certificate submitted by learned State counsel, petitioner is not involved in any other criminal case.

Learned counsel refers to **CRM-M No.20566 of 2019** titled '**Veeru vs State of Punjab**' decided on 19.11.2019, **CRM-M No.41779 of 2020** titled '**Gurpreet Singh vs State of Punjab**' decided on 17.12.2020, **CRM-M No.17481 of 2020** titled '**Mani Singh @ Maddi vs State of Punjab**' decided on 22.07.2020, **CRM-M No.25382 of 2020** titled '**Gurbaksh Singh vs State of Punjab**' decided on 02.09.2020 and submits that by virtue of long incarceration of the petitioner, petitioner is entitled for regular bail *de hors* the nature of quantity. This is so particularly in view of his non-involvement in any other case.

Challan has already been submitted, charges have been framed and out of total 14 prosecution witnesses, 05 prosecution witnesses have been examined fully and one witness has been examined in chief.

Learned counsel further submits that in view of interpretation attached to Rule 66 of Narcotic Drugs and Psychotropic Substances Rules of 1985, a person can have 100 doses of such like psychotropic substance even without medical

prescription. He refers to **CRM-M No.5207 of 2014** titled '**Saleem Mohd vs State of Punjab**' decided on 04.11.2015 by the Hon'ble Division Bench 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, bail was granted by this Court after considering the interpretation attached to Rule 66 of 1985 Rules and other precedents on the point.

Learned State counsel, however, opposed the bail on the ground that out of total 14 prosecution witnesses, 06 witnesses have been examined and there is every likelihood of the trial being culminated very shortly.

Having considered the submissions, I find that the petitioner is not involved in any other case. He is in custody for the last more than 02 years, 06 months and 26 days.

Trial of the case may take some time in its culmination.

Owing to the situation arising out of pandemic COVID-19 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 opinion on merits of the case.

September 15, 2021

Jyoti Sharma

(RAJ MOHAN SINGH)
JUDGE

1. Whether speaking/reasoned : Yes/No
2. Whether reportable : Yes/No