

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(211)

CRM No. M-47285-2021
Date of Decision : 16.11.2021

Sonu

....Petitioner

Versus

State of Haryana

.....Respondent

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. Keshav Pratap Singh, Advocate with
Mr. T.S. Walia, Advocate for the petitioner.

Mr. Gagandeep Singh Chhina, Assistant Advocate General,
Haryana.
(keeping in view advance copy given)

Harsimran Singh Sethi, J. (Oral)

The present petition has been filed under Section 439 Cr.P.C. for the grant of regular bail to the petitioner in FIR No. 203 dated 20.05.2021, registered under Sections 22(A), 22(C), 61 of Narcotic Drugs and Psychotropic Substances Act, 1985, Section 51 of Disaster Management Act, 2005 and Section 188 IPC, at Police Station Saran, District Faridabad.

Learned counsel for the petitioner argues that in the present case, the recovery from the petitioner is of 10 Injections of marka LEEGESIC (Buprenorphine injection IP) 2ml. each, which as per the Notification issued by the Central Government, cannot be treated as commercial quantity and as the investigation is already over and the challan

has been presented, the petitioner may kindly be extended the benefit of regular bail, especially, in view of the fact that co-accused of the petitioner, namely, Lakhan, has already been extended the benefit of regular bail by the trial Court on 04.06.2021.

Notice of motion.

Mr. Gagandeep Singh Chhina, learned Assistant Advocate General, Haryana, who is present in Court, keeping in view the service of advance copy of petition, accepts notice on behalf of the respondent-State.

Learned State counsel submits that the commercial quantity of Buprenorphine injection IP has been fixed by the Government of India, which is 20 grams and as the quantity recovered from the petitioner is 20 ml. of Buprenorphine injection IP, the same is to be treated as commercial in nature and the parameters as envisaged under Section 37 of the Narcotic Drugs and Psychotropic Substances Act, 1985 applies in the present case.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

The commercial quantity of the banned drugs have been fixed by the Government of India vide different Notifications. The commercial quantity fixed for Buprenorphine injection IP is 20 grams. The definition of commercial quantity as notified by the Government is as under :-

“(viiia) “commercial quantity”, in relation to narcotic drugs and psychotropic substances, means any quantity greater than the quantity specified by the Central Government by notification in the Official Gazette.”

A bare perusal of the above would show that any quantity, which is greater than the quantity specified by the Central Government by

the notification in the Official Gazette is to be treated as “commercial quantity”. In the present case, it is not the case of the State that the quantity recovered from the petitioner is in any manner greater than the quantity specified in the Official Gazette by the Government of India qua the banned drug of Buprenorphine. Nothing has been shown to this Court that the quantity recovered from the petitioner is commercial as per the definition of commercial quantity as envisaged under the Narcotic Drugs and Psychotropic Substances Act, 1985.

Further, the co-accused, Lakhan has already been extended the bail by the trial Court and as the quantity of the banned drug recovered from the petitioner is not more than the maximum quantity fixed by the Government of India to be treated as a commercial quantity, the parameters as envisaged under Section 37 of Narcotic Drugs and Psychotropic Substances Act, 1985 will not apply in the present case, while considering the prayer of the petitioner for the grant of regular bail.

Keeping in view the fact that the investigation is already over and the challan has already been presented and the trial is likely to take some time before the same concludes, no useful purpose will be served keeping the petitioner behind the bars, especially, when learned counsel for the petitioner has undertaken before this Court that the petitioner will not influence the trial in any manner and will maintain good conduct, if he is granted bail. In case of default of the undertaking, the State will be at liberty to approach this Court for passing appropriate orders.

The petitioner is directed to be released on regular bail in this case subject to the satisfaction of the trial Court/Duty Magistrate concerned.

However, it is made clear that anything observed herein shall not be construed to be an expression of any opinion on the merits of the case.

November 16, 2021
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether reasoned/speaking? Yes/No
Whether reportable? Yes/No