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

CRM-M-43784-2020

Date of Decision: 09.02.2021

Vijay Kumar

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present: Mr. P.S. Ahluwalia, Advocate,
for the petitioner.

Mr. B.S. Sewak, Additional Advocate General, Punjab.

SUDIP AHLUWALIA, J. (ORAL)

This is a petition filed under Section 439 of the Code of Criminal Procedure by the petitioner, seeking regular bail in case FIR No.13, dated 03.02.2020, under Sections 22/61/85 of the NDPS Act, 1985, registered at Police Station City Samana, District Patiala.

2. Perusal of the Custody Certificate of the petitioner, sent up by Ld. State Counsel through e-mail, goes to show that by now the petitioner has already undergone detention in excess of one year, following his arrest on 03.02.2020.

3. Contention of Ld. Counsel for the petitioner in this regard is that the petitioner is a licensed Chemist and that from the three items allegedly recovered from his Chemist Shop, he was permitted to stock the tablets of *ALPRANOF 0.5 mg.*, as can be seen from his existing License, reissued on

08.09.2019 (Annexure P-2), and that the liquid material recovered from his shop was found to contain “*Oxytocin*” which according to the FSL Report on record (Annexure P-3), in any case does not fall under the ambit of NDPS Act, 1985.

4. Regarding the recovery of *Diphenoxylate Hydrochloride* tablets, it is an admitted case in the FIR that such recovery was of 400 tablets, the average weight of which was found to be 82 mg. per tablet in the FSL Report. Consequently, total weight of the same would come to 32.8 gms., which is well below the commercial quantity of 50 gms.

5. In this view of the matter, considering the long detention already undergone by the petitioner and without making any further comments on the merits of the case, this court is of the opinion that his further detention for an indefinite period of time at this stage is not called for, since he is admittedly not involved in any other case under the NDPS Act, 1985. On the contrary, he is found to have actually been acquitted in a previous case, which has been mentioned in Column No.4 of the petitioner's Custody Certificate sent up by Ld. State Counsel, today.

6. For the aforesaid reasons, the prayer of the petitioner for regular bail is allowed and he is ordered to be released on bail, subject to appropriate terms and conditions to the satisfaction of the Ld. Trial Court/Duty Magistrate, concerned.

7. Disposed off.

09.02.2021

Apurva

(SUDIP AHLUWALIA)
JUDGE

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