

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

230

**CRM-M-52233-2021 (O&M)
Date of Decision: 17.12.2021**

Jaswinder @ Shindra

...Petitioner

Versus

The State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Charanpreet Singh, Advocate, for the petitioner.

Mr. Ajay Pal Singh Gill, DAG, Punjab,
assisted by ASI Parminderjit Singh.

GURVINDER SINGH GILL, J. (Oral)

1. The petitioner has approached this Court seeking grant of regular bail in respect of a case registered against her vide FIR No.101 dated 25.08.2021 at P.S. Sadar Banga, District SBS Nagar, under Section 22 of the NDPS Act, wherein it is alleged that the petitioner was found in possession of 10 intoxicating injections without label measuring 2ml each.
2. Learned counsel for the petitioner has submitted that even if the allegations as leveled in the FIR are taken to be correct, still the aforesaid quantity of the contraband i.e. 20 ml of Buprenorphine would fall under the category of 'non-commercial' quantity and as such, the petitioner being a lady deserves the concession of bail.
3. Opposing the petition, learned State counsel has submitted that the petitioner stands involved in 3 more cases i.e. another under the NDPS Act and the other 2 under the Excise Act and in these circumstances, the petitioner does not deserve the concession of bail. Learned State counsel

has, however, informed that the petitioner as on date has been behind bars since the last more than 3 months and that challan stands presented.

4. I have considered rival submissions addressed before this Court.
5. In the instant case, even it is taken that the recovered contraband stated to be Buprenorphine weighs 20 grams, it will still be debatable as to whether the same would fall in the category of 'commercial' quantity or 'non-commercial' quantity inasmuch as Section 2 (viia) of the NDPS Act, 1985 defines 'commercial quantity' as follows:

“2. Definitions -

xx

xx

xx

(viia) “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;”

6. Since as per Notification No.S.O.1055(E) dated 19.10.2001 issued by the Central Government specifying 'commercial quantity' and 'small quantity' of contraband, it is 20 grams, which is mentioned therein, therefore, it is only a quantity greater than 20 grams, which can be said to be falling in the category of 'commercial' quantity. Even otherwise, the petitioner, who is a lady, has been behind bars since the last more than 3 months and challan already presented.
7. Having regard to the aforesaid position particularly the fact that the petitioner is a lady and that the quantity recovered could fall in the category of 'non-commercial' quantity, the petition is accepted and the petitioner is ordered to be released on regular bail on her furnishing bail

bonds/surety bonds to the satisfaction of learned trial Court/Chief
Judicial Magistrate/Duty Magistrate concerned.

8. It is, however, made clear that none of the observations made above shall
be taken to be an expression on merits of the main case.

17.12.2021

Vimal

(GURVINDER SINGH GILL)
JUDGE

Whether speaking/reasoned: **Yes/No**
Whether reportable: **Yes/No**