

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

**CRM-M-19271-2022 (O&M)  
Date of Decision : 25.08.2022**

Amit Kumar alias Rachu

..... Petitioner

Versus

State of U.T., Chandigarh

..... Respondent

**CORAM : HON'BLE MR. JUSTICE JASGURPREET SINGH PURI**

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Present : Mr. Rahil Mahajan, Advocate  
for Mr. Ashish Aggarwal, Advocate  
for the petitioner.

Mr. Ashish Rana, Advocate  
for Mr. Amit Kumar Goyal, Advocate  
for the respondent-UT, Chandigarh.

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**JASGURPREET SINGH PURI, J(ORAL)**

The present petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR bearing No.05 dated 19.01.2022, under Section 21, 22 of the Narcotic Drugs & Psychotropic Substances Act (in short 'the Act'), registered at Police Station Maloya, District Chandigarh.

Learned counsel for the petitioner has submitted that the petitioner is in custody from 19.01.2022 which is more than 07 months and it is a case where the petitioner has been falsely implicated. He further submitted that even as per the prosecution, the alleged recovery from the petitioner was 45 grams of heroin which does not fall in the category of commercial quantity and 80 injections of Buprenorphine consisting of 2ml each is although higher than commercial quantity

doses of Buprenorphine for medical purposes without prescription. He has also relied upon the judgment of **Sukhwinder Singh @ Vicky vs. State of Punjab 2021 (1) RCR (Crl.) 177** and also submitted that it is to be seen at the time of trial regarding the necessity to use the Buprenorphine injections. He further submitted that the petitioner was earlier involved in two more cases out of which in one case he has been acquitted and in another case under the NDPS Act he is under trial but the alleged recovery in that case was only 4 grams of smack. He submitted that infact in view of the pendency of the earlier case, the petitioner has been falsely implicated in the present case by the police.

On the other hand, learned counsel for the respondent-UT, Chandigarh has stated that it is correct that the petitioner is in custody from 19.01.2022. He has further submitted that since the petitioner was earlier also involved in NDPS case, he is not entitled for the grant of regular bail.

I have heard learned counsel for the parties.

As per learned counsel for the parties, the investigation of the case has been completed, challan has already been presented and charges have been framed. The alleged recovery from the petitioner was 45 grams of heroin which does not fall in the category of commercial quantity. So far as the 80 injections of Buprenorphine is concerned, the case of the petitioner is covered by the judgment of this Court in **Sukhwinder Singh's case** (supra). Apart from the same, it is not the case of the State that in case the petitioner is released on bail then he may repeat the offence or may influence the witnesses or may tamper with the evidence. Even as per the learned counsel for the parties, no recovery is to be effected from the petitioner. The trial of the case may take long time and the bar contained under Section 37 of the Act will not apply in the present case in view of the judgment of this Court in **Sukhwinder**

Consequently, the present petition is allowed. The petitioner is ordered to be released on bail on furnishing of bail bonds/surety bonds to the satisfaction of the concerned Chief Judicial Magistrate/Trial Court/Duty Magistrate.

However, anything observed herein above shall have no effect on the merits of the case and is meant for deciding the present petition only.

( JASGURPREET SINGH PURI )  
JUDGE

25.08.2022  
mamta

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|---------------------------|--------|
| Whether speaking/reasoned | Yes/No |
| Whether Reportable        | Yes/No |