

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

211

CRM-M-29359-2021

Date of Decision : **February 17, 2022**

GURINDER SINGH ALIAS RASGULLA

.....Petitioner

VERSUS

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present : Mr. Ajay Singla, Advocate
for the petitioner.

Ms. Rukhsaar Dhindsa, AAG, Punjab.

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 No.165 dated 18.12.2020 under Section 22 of NDPS Act (later on challan presented under Section 22 C of NDPS Act), Police Station Special Task Force, District SAS Nagar, Mohali (STF Wing).

The learned counsel for the petitioner has submitted that the petitioner is in custody from 18.12.2020 which is more than one year and the investigation of the case has already been completed and the matter is now fixed for prosecution evidence. He has further submitted that it is a case where the allegations against the petitioner are that there was a recovery of 20 injections each of 10 ml of Avil and 20 injections each of 2 ml of Leegesic which contained the salt of Buprenorphine from the petitioner. He submitted that so far as the salt of Avil is concerned, the same is not covered within the scope of NDPS Act and so far as the

recovery of 20 injections of each containing 2 ml of Leegestic is concerned, although the same falls within the commercial quantity which is 20 ml but in view of Rule 66 of the NDPS Rules, a person can always possess the quantity upto 100 doses for medical purposes and so far as the present petitioner is concerned, he was undergoing treatment from the PGI, Chandigarh for his depression and rehabilitation and the same was required for his own personal use. He further submitted that he was earlier involved in one other case under the NDPS Act but in that case there was no recovery from the petitioner and his name was nominated on the basis of disclosure statement and he is already on bail in that case. He submitted that in view of the facts and circumstances of the case, the petitioner may be considered for the grant of regular bail and he has also relied upon the judgments of this Court in **Saleem Mohd. Vs. State of Punjab, 2015(25) R.C.R. (Criminal) 816** and **Sukhwinder Singh @ Vicky Vs. State of Punjab, 2021(1) R.C.R.(Criminal) 177** to contend that keeping upto 100 doses of Buprenorphine injections for consumption for medical purposes is permissible under Rule 66(2) of NDPS Rules. He further submitted that in view of the aforesaid position, the rigor of Section 37 of NDPS Act will not apply to the petitioner.

On the other hand, learned State counsel has submitted that it is correct that the salt of Avil is not covered within the scope of the NDPS Act but so far as the other salt of Buprenorphine is concerned, there was a total recovery of 20 injections of 2 ml each and the commercial quantity is 20 mg under the schedule of the NDPS Act. She has further submitted that it is correct that the petitioner is in custody

from 18.12.2020 and the matter is fixed for prosecution evidence.

I have heard the learned counsels for the parties.

The custody of the petitioner is not in dispute. It is also not in dispute that the investigation of the case has already been completed and the matter is now fixed for prosecution evidence. So far as the alleged recovery of 40 ml of Buprenorphine injections is concerned, learned counsel for the petitioner has submitted that the petitioner was undergoing treatment in PGI, Chandigarh for depression and rehabilitation and for that purpose it appears that he was in the requirement of injections of Buprenorphine which is a known drug for the purpose of making rehabilitation for those who are addicted to drugs. The aforesaid two judgments would also be applicable in the present case. Furthermore, it is not the case of the State that in case the petitioner is released on bail then he may influence any witness or may tamper with any evidence or may repeat the offence. Therefore, the rigor of Section 37 of NDPS Act will not apply to the petitioner atleast at this stage.

In view of the facts and circumstances of the case, this Court deems it fit and proper to grant bail to the petitioner.

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

(JASGURPREET SINGH PURI)
JUDGE

February 17, 2022

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Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No