

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

(THROUGH VIDEO CONFERENCING)

CRM-M-31142-2021

Date of Decision: 14.1.2022

Balram

....Petitioner

VERSUS

State of Haryana

....Respondent

CORAM:- HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. N.K.Malhotra, Advocate
for the petitioner.

Mr. Naveen Kumar Sheoran, DAG, Haryana.

KARAMJIT SINGH, J.

The present petition has been filed under Section 439 Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No.522 dated 19.11.2020 registered for the offences punishable under Sections 22 of NDPS Act at Police Station Old Subzi Mandi, Rohtak, District Rohtak.

Counsel for the petitioner submitted that the petitioner has been falsely implicated in this case which is relating to recovery of 12 injections of Buprenorphine IP Leegesic and 640 tablets of Alprasafer. He further contended that quantity of Alprasafer tablets from the possession of the petitioner is covered under non-commercial quantity of contraband. It is further contended that the trial Court dismissed the bail application of the petitioner while observing that 12 injections of Buprenorphine alleged to be recovered from the petitioner falls in commercial quantity of contraband.

1.10.2018 in CRM-M-28002-2018; Anil Kumar @ Nehla v. State of Punjab submitted that the question as to whether recovery of injections of Buprenorphine is covered under NDPS Act or Drugs and Cosmetics Act, has been referred to larger Bench of this Court. Counsel for the petitioner further submitted that the petitioner is in custody for the last more than one year and the trial is not going ahead due to Covid-19 situation. So, prayer is made for grant of regular bail to the petitioner.

The present petition is opposed by the learned State counsel who submitted that the present case falls under commercial quantity of contraband and as such, the court below rightly dismissed the bail application.

I have considered the submissions made by the counsel for the parties.

Learned State counsel has not disputed the fact that recovery of 640 tablets of Alpraxafe is covered under non-commercial quantity of contraband.

As far as alleged recovery of 12 injections of Buprenorphine is concerned, the question as to whether the said recovery is covered under NDPS Act or falls under Drugs & Cosmetics Act is already pending before larger Bench of this Court in light of order dated 1.10.2018 passed by Coordinate Bench of this Court in Anil Kumar @ Nehla's case (supra). Admittedly, the petitioner who was arrested on 19.11.2020 has already undergone actual custody of more than one year. Counsel for the State admitted that the petitioner is not facing any other case under NDPS Act. It is also not disputed that in the present case, trial is not progressing due to Covid-19 situation. In the given circumstances, no useful purpose would be

served by keeping the petitioner in custody for any longer period.

In view of the above, without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Duty Magistrate concerned.

January 14, 2022
Paritosh Kumar

(KARAMJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No