

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

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CRM-M-32799-2021

Date of Decision : **July 27, 2022**

NIKSHYA

.....Petitioner

VERSUS

STATE OF HARYANA

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Preent : Mr. Rahul Gautam, Advocate and
Mr. Raj Partap Singh Brar, Advocate as legal aid counsel
for the petitioner.

Mr. Naveen Singh Panwar, DAG, Haryana.

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.84 dated 25.2.2020 under Sections 21-22 of NDPS Act, 1985, registered at Police Station Parao, District Ambala.

It has been submitted by the learned counsel for the petitioner that the petitioner is in custody from 2 years and 5 months and the alleged recovery from the petitioner was 400 vials/injections of Buprenorphine 2 ml each which turned out to be 800 ml. He submitted that the aforesaid salt of Buprenorphine does not fall in the schedule of the Rules of the NDPS Act but falls under the NDPS Act at serial No.169 in the schedule and, therefore, it is debatable issue as to whether it is a contraband under the NDPS Act or not and, therefore, he may be considered for the grant of regular bail. He further submitted that in view of the custody also he may be considered for the grant of regular bail.

On the other hand, the learned State counsel has stated that so far as the custody of the petitioner is concerned, the same is correct and has stated that now the trial has started and one witness has also been examined and the charges have been framed on 7.1.2021. He further submitted that Buprenorphine is part of the schedule at serial No. 169 of NDPS Act and is covered by the NDPS Act and it is not a debatable issue. He submitted that it is a case where the petitioner was caught on the spot alongwith the aforesaid injections which fall in the category of commercial quantity and, therefore, the prayer of the petitioner is hit by the bar contained under Section 37 of NDPS Act.

I have heard the learned counsels for the parties.

As per the allegations, the petitioner was caught on the spot alongwith 400 injections/vials of Buprenorphine which undoubtedly fall in the category of commercial quantity. The argument raised by the learned counsel for the petitioner that the salt of Buprenorphine does not fall under the schedule of the NDPS Act is not sustained in view of the specific entry made in the schedule of the NDPS Act. The learned counsel for the petitioner has not been able to make out any ground for making a departure from the bar contained under Section 37 of NPDS Act.

Consequently, finding no merit in the present petition, the same is, hereby, dismissed.

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

(JASGURPREET SINGH PURI)
JUDGE

July 27, 2022
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Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No