

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-35117-2021 (O&M)
Date of Decision:-1.4.2022

Sandeep ... Petitioner

Versus

State of Punjab ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Narinder S. Lucky, Advocate with
Mr. Navjot Singh, Advocate for the petitioner.

Mr. Anmol Singh Sandhu, AAG, Punjab.

GURVINDER SINGH GILL, J.(Oral)

1. The petitioner has approached this Court seeking grant of regular bail in respect of a case registered vide FIR No.31 dated 6.6.2021 at Police Station Mukandpur, District SBS Nagar under Sections 22 of Narcotic Drugs & Psychotropic Substances Act.
2. As per the case of prosecution, the petitioner was found in possession of 10 vials of 'Buprenorphine' (2 ml. each) apart from 10 vials of 'Avil' (10 ml. each).
3. Learned counsel for the petitioner submitted that, even if, for the sake of arguments it is taken that 1 ml. of 'Buprenorphine' weighs 1 gram, still the

recovered quantity can be said to be just about 20 gms. and that it will be debatable as to whether the same can be classified as a 'commercial' quantity or 'non-commercial' quantity inasmuch as Section 2 (viia) of the NDPS Act, 1985 defines 'commercial quantity' as follows:

“2. Definitions -

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(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;”

4. 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.
5. Learned counsel for the petitioner has further submitted that since there is no convincing evidence as regards the weight of the recovered contraband, the petitioner deserves the concession of bail.
6. On the other hand, learned State counsel while opposing the petition, has submitted that the petitioner stands involved in 1 more case and infact stands convicted in the said, wherein he was found in possession of 'non-commercial' quantity of contraband, no case for grant of bail is made out. Learned State counsel has, however, informed that the petitioner as on date has been behind bars since the last 9 months and 24 days. It has also been informed that although challan has been presented but charges are yet to be framed and that as many as 10 PWs have been cited.

7. I have considered rival submission addressed before this Court.
8. In view of the fact that it is a case of recovery of 20 ml. of 'Buprenorphine', it will certainly be debatable as to whether the same can be categorized as 'commercial' quantity or as to whether the same would fall in the category of 'non-commercial' quantity given the fact that the weight of contraband would also be required to be ascertained. In any case, since the petitioner has been behind bars since the last more than 9 months and conclusion of trial is likely to consume time inasmuch as the trial has not even commenced till date, further detention of the petitioner will not be justified. The petition, as such, is accepted and the petitioner is ordered to be released on regular bail on his furnishing bail bonds/surety bonds to the satisfaction of learned Trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

1.4.2022

pankaj

**(Gurvinder Singh Gill)
Judge**

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No