

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-36409-2021(O&M)

Date of Decision: 08.03.2022

Baljit Singh

....Petitioner(s)

Versus

State of Punjab

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. M.S. Saini, Advocate and
Mr. Dinesh Nagar, Advocate, for the petitioner.

Mr. C.L. Pawar, Senior Deputy Advocate General, Punjab.

Through Video Conferencing

JASGURPREET SINGH PURI, J. (Oral)

CRM-8226-2022

The present application has been filed for placing on record judgments Annexures P-3 to P-7.

For the reasons recorded in the application, the same is allowed and Annexures P-3 to P-7 are taken on record subject to just exceptions.

Main case

The present petition has been filed under Section 439 of the Code of Criminal Procedure for the grant of regular bail to the petitioner in FIR No.0167 dated 29.06.2021, under Sections 21 and 22 of the NDPS Act, registered at Police Station City Nawanshahar, District Shaheed Bhagat Singh Nagar, Punjab.

The learned counsel for the petitioner has submitted that the petitioner is in custody from 29.06.2021 and the investigation of the case has already been completed. He further submitted that as per the allegations there was a recovery of only 14 injections of Buprenorphine Hydrochloride (Leegestic IP) consisting of 2 ml each, 14 injections of Avil and 5 grams of heroin which is a small quantity. He further submitted that so far as Avil is concerned, the same is not covered with the scope of the NDPS Act and so far as 14 injections of Buprenorphine Hydrochloride are concerned, the same comes out to 28 ml which is although commercial quantity but in view of Rule 66 of the NDPS Rules, the same can be possessed in case there is a medical need for the same without any prescription. He further referred to the judgment of this Court in ***Sukhwinder Singh @ Vicky Versus State of Punjab [2021(1) RCR (Criminal) 177*** and also a Division Bench of this Court in ***Saleem Mohd. Versus State of Punjab [2015(25) RCR (Criminal) 816]***. He further submitted that so far as the recovery of heroin is concerned, the same is 5 grams which is a small quantity. He further submitted that he has already filed the copies of the judgments vide Annexures P-3 to P-7 whereby the petitioner was involved in other cases pertaining to small quantities under the NDPS Act he has been acquitted or discharged in those cases. He further submitted that it was only because of those cases in which he is already acquitted, the present case has been planted upon him.

On the other hand, Mr. C.L. Pawar, learned Senior Deputy Advocate General, Punjab has submitted that it is correct that the petitioner is in custody from 29.06.2021 and the investigation of the case is complete

and challan has been presented. He further submitted that so far as the involvement of the petitioner in other cases is concerned, the petitioner is also acquitted in most of the cases but in one of the cases, he is still under trial and has submitted that it is correct that the recovery from the petitioner was pertaining to heroin which was of a non-commercial quantity but so far as the recovery of 14 injections of Buprenorphine Hydrochloride is concerned, the same is commercial quantity. So far as the judgment of this Court in ***Sukhwinder Singh @ Vicky Versus State of Punjab (supra)*** and also a Division Bench of this Court in ***Saleem Mohd. Versus State of Punjab (supra)*** is concerned, the same would be applicable to the present case as well.

I have heard the learned counsel for the parties.

The petitioner is in custody from 29.06.2021. Vide Annexures P-3 to P-7 the petitioner has since been acquitted and discharged in the other cases except in one case which is still pending against him. The bar contained under Section 37 of the NDPS Act would not apply in the present case in view of the fact that the confiscated quantity of Avil is not covered under the scope of the NDPS Act and the quantity of 5 grams of heroin is not of commercial quantity but so far as 14 injections of Buprenorphine Hydrochloride are concerned, the case of the petitioner would be covered by the judgment of this Court in ***Sukhwinder Singh @ Vicky Versus State of Punjab (supra)*** and also a Division Bench of this Court in ***Saleem Mohd. Versus State of Punjab (supra)***. Furthermore it is not the case of the State that in case the petitioner is released on bail then he may abscond from justice or may repeat the offence.

Therefore, without commenting on the merits of the case and considering the totality of circumstances, the present petition is allowed. The petitioner shall be released on regular bail subject to furnishing bail bonds/surety to the satisfaction of the learned trial Court/Duty Magistrate concerned.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant for the purpose of deciding the present petition only.

08.03.2022

rakesh

Whether speaking
Whether reportable

(JASGURPREET SINGH PURI)
JUDGE

: Yes/No
: Yes/No