

210+107

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

CRM-M-40369-2020 (O&M)

Date of Decision: 31.05.2022

Bikram Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Arshvir Singh Sandhu, Advocate,
for the applicant/petitioner.

Mr. Davinder Bir Singh, DAG, Punjab.

JASGURPREET SINGH PURI, J. (ORAL)

CRM-20405-2022

The present application has been filed under Section 482 of the Code of Criminal Procedure for adding offence under Section 411 of the IPC in the head note as well as Para-2 and prayer clause of the main petition.

Mr. Davinder Bir Singh, DAG, Punjab has stated that he has no objection in case the offence under Section 411 of the IPC is added in the head note as well as Para-2 and prayer clause of the main petition.

In view of the above, the present application is allowed and the offence under Section 411 of the IPC be added in the head note and Para-2 as well as prayer clause of the main petition.

The Registry is directed to make necessary corrections.

CRM-M-40369-2020

The present petition has been filed under Section 439 of the

Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No.214 dated 26.09.2020, under Section 22-C of the N.D.P.S. Act, 1985 and Section 411 of the IPC (added later on), registered at Police Station City Kharar, District SAS Nagar, Punjab.

Learned counsel for the petitioner has submitted that the petitioner is in custody since 26.09.2020, which is almost 1 year and 8 months. He further submitted that the charges were framed in the present case on 16.08.2021 and no prosecution witness has been examined. He also submitted that the petitioner was falsely implicated in the present case and there is no other case under the N.D.P.S. Act against the petitioner. He further submitted that even as per the allegations in the FIR, there was a recovery of 30 injections of *Buprenorphine* containing 2 ml. each and 30 vials of *Pheniramine maleate*, which although falls in the category of commercial quantity but in view of the judgment of this Court in **“Sukhwinder Singh @ Vicky Vs. State of Punjab”, 2021(1) RCR (Criminal) 177** and Rule 66 of the N.D.P.S. Rule, a person can keep 100 dosage of *Buprenorphine* for the purpose of medical use without prescription. He also submitted that in view of the aforesaid position and coupled with the fact that the petitioner is in custody for about 1 year and 8 months, he may be considered for the grant of regular bail.

On the other hand, Mr. Davinder Bir Singh, learned DAG, Punjab, has submitted that it is correct that the petitioner is in custody, since 26.09.2020 and he is not involved in any other case under the N.D.P.S. Act.

I have heard the learned counsel for the parties.

The allegations against the petitioner were that he has been

apprehended with 30 injections of *Buprenorphine* along with 30 vials of Avil. However, vials of Avil do not fall within the ambit of N.D.P.S. Act. So far as the 30 injections of *Buprenorphine* are concerned, the same would be totalling to 60 ml. but it is less than 100 dosage. The petitioner is not involved in any other case under the N.D.P.S. Act and he is in custody for 1 year and 8 months. Therefore, in view of the judgment of ***Sukhwinder Singh @ Vicky's case (Supra)***, the petitioner is entitled for the grant of regular bail and the rigor of Section 37 of the N.D.P.S. Act will not apply in the present case since the number of dosage were less than 100 and the same can be kept without any prescription for own medical purposes.

Consequently, the present petition is allowed and the petitioner is ordered to be released on bail on furnishing bail bond/surety bond to the satisfaction of the trial Court/Duty Magistrate concerned, if not required in any other case.

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

31.05.2022*Bhumika***(JASGURPREET SINGH PURI)
JUDGE**

- | | |
|-------------------------------|--------|
| 1. Whether speaking/reasoned: | Yes |
| 2. Whether reportable: | Yes/No |