

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

210

**CRM-M-43020-2022
Decided on : 22.09.2022**

Harpreet Singh @ Pitta

... Petitioner(s)

Versus

State of Punjab

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. PS Sekhon, Advocate
for the petitioner.

Mr. AS Sandhu, AAG, Punjab.

SANJAY VASHISTH, J. (Oral)

The instant petition has been filed under Section 439 of the Code of Criminal Procedure, 1973, for grant of regular bail to the petitioner – Harpreet Singh @ Pitta, who has been booked for having committed the offences punishable under Sections 22 and 29 of the NDPS Act, 1985, in FIR No. 54, dated 24.04.2022, registered at Police Station Longowal, District Sangrur, during the pendency of trial.

Learned counsel for the petitioner argues that in the present case, which was registered in April, 2022, recovery of 14 injections of Buprenorphine, has been shown from the transparent envelope, which was thrown by the petitioner on the kacha passage. He further argues that said recovery is completely false because ASI Ram Singh has been inimical against the petitioner since the month of January, 2022. In this regard, learned counsel for the petitioner reads averments made in the petition

mentioned in paragraph 4, which says as under:-

“4. That in effected the from present case, no recovery was the Petitioner rather police officials of P.S. Longowal are inimical towards the Petitioner and were trying to falsely involved him in a criminal case. On dated 01.01.2022 at time about 06:30 pm Police party of P.S. Longowal headed by ASI Amrik Singh raided the house of the Petitioner and conducted the search, but nothing was recovered from the Petitioner and from his house. The brother of Petitioner namely Harwinder Singh had recorded the video of the said incident with the help of his mobile phone. Thereafter the neighbourhood gathered at the house of Petitioner and police officials tender an apology in the presence of Panchyat. With the intervention of the respectable of the area the police had left the spot and released the Petitioner. The true copies of the photographs of the said video recorded by the brother of the petitoiner are attached herewith as Annexure P/2.”

Thereupon, by showing the photographs (Annexure P-2), learned counsel for the petitioner tries to buildup his argument that ASI Ram Singh and the present petitioner can be seen in these photographs that force is being applied by the Investigating Officer Ram Singh. Learned counsel for the petitioner further submits that antecedents of this ASI Ram Singh are not clean, because subsequently, he himself was found in a case FIR No. 21, dated 24.08.2022, under Sections 7, 7-A of the PC Act and 120-B IPC, Police Station Vigilance Bureau, Patiala.

In response to the arguments addressed by learned counsel for the petitioner, learned State counsel, produces the custody certificate dated 22.09.2022 in Court today, which is taken on record, subject to all just exceptions. Office to tag the same at appropriate place.

A copy thereof has been handed over to the counsel for the petitioner.

Learned State counsel submits that as per FSL report, 01 ml of the Buprenorphine contains 0.26 mg per ml. in other words, 0.52 mg per injection, because one injection contains 02 ml of Buprenorphine. On calculating the same, it is found that total recovery of 1.456 mg. of Buprenorphine was contained into all 14 injections.

On seeing FSL report, learned counsel for the petitioner submits that commercial quantity would be more than 20 grams and therefore, recovered quantity in the present case, would be called as intermediate quantity.

Learned counsel further submits that investigation in the matter is complete and FSL report has also been received and challan is likely to be submitted very soon.

After considering the submissions of both the sides, perusing the record with their able assistance, and considering all the factors recorded hereinabove, this Court finds that petitioner is aged about 25 years and is inside jail for the last about 05 months. Custody certificate also shows that there is no other case of similar nature registered against the petitioner. Once the recovery from the petitioner is much less to the non-commercial quantity and no other case is registered against him, applicability of bar of Section 37 of NDPS Act, would be arguable question before the trial Court.

In these circumstances, this Court is also of the view that no purpose would be served by keeping the petitioner inside jail for indefinite period.

Besides above, this Court would not go into the arguments raised by learned counsel for the petitioner with regard to the inimical relations of the petitioner with ASI Ram Singh, more for the reason that case registered against said ASI Ram Singh under the PC Act, was registered subsequent to the registration of present FIR against the petitioner.

Accordingly, the prayer made in the present petition is allowed. Petitioner is ordered to be released on bail in this case, subject to his furnishing bail/surety bonds to the satisfaction of the learned Trial Court/ Chief Judicial Magistrate/ Illaqa Magistrate/ Duty Magistrate concerned, if not required in any other case.

It is made clear that the petitioner shall not extend any threat and shall not influence any prosecution witnesses in any manner directly or indirectly.

The observation made here-in-above shall not be construed as an expression on the merits of the case and the Trial Court shall decide the case on the basis of evidence available on record.

It is further made clear that if in future petitioner is found indulged in similar kind of activities, prosecution would be at liberty to seek cancellation of bail in the present case.

Petition stands disposed of.

(SANJAY VASHISTH)
JUDGE

September 22, 2022
J.Ram

Whether speaking/reasoned: *Yes/No*
Whether Reportable: *Yes/No*