

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

CRM-M-1197-2022 (O&M)

Date of decision: 12.10.2022

Paramjit Kaur @ Matto

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. S.S. Rana, Advocate for the petitioner.

Mr. Subhash Godara, Addl. A.G. Punjab.

HARNARESH SINGH GILL, J. (ORAL)

Through this second petition, the petitioner seeks regular bail in case FIR No.29 dated 28.02.2020, registered at Police Station Garhshankar, District Hoshiarpur, under Section 22 NDPS Act, 1985.

Custody certificate dated 11.10.2022 issued by the Superintendent, Central Jail, Hoshiarpur, submitted by the learned State counsel in the Court is taken on record.

As per the prosecution version, the petitioner was arrested and 13 injections of Buprenorphine 2 ML alongwith 13 injections (vials) Avil Pheniramine Maleate 10 were recovered from her.

Learned counsel for the petitioner contends that the petitioner has falsely been implicated in the present case; that *avil* injections contain non-psychoactive substance and hence it does not fall under the scheduled

offences under the NDPS Act; that at the time of alleged recovery, no lady police was present there; that the provisions of Section 50(4) of the NDPS Act had not been complied with in the present case and that the alleged recovery effected from the petitioner is marginally above the commercial quantity.

Learned counsel for the petitioner relies upon Rule 66 of the NDPS Rules, 1985 to contend that even without any medical prescription, 100 doses of such like psychotropic substance, could be retained by the petitioner.

In support of his contentions, learned counsel for the petitioner relies upon the orders passed by a Division Bench of this Court in Saleem Mohd. Vs. State of Punjab 2015(25) RCR (Criminal) 816, order dated 23.04.2018 passed by a Coordinate Bench in CRM-M-15370-2018 titled as Mandeep Singh @ Deep Vs. State of Punjab, judgment dated 21.08.2018 passed by a Coordinate Bench in Rajvir Singh @ Raju Vs. State of Punjab, Law Finder Doc Id # 1165565, and order dated 09.07.2021 passed by a Coordinate Bench in CRM-M-25245-2021 titled as Jasvir Singh @ Jassi Vs. State of Punjab.

On the other hand, learned State counsel, while opposing the grant of bail to the petitioner, submits that the petitioner is a habitual offender, as he is involved in other cases under the NDPS Act; that the recovery effected from the petitioner, falls under the commercial quantity and that the case of the petitioner is hit by the bar contained under Section 37 NDPS Act. However, he does not dispute the custody period of the petitioner.

I have heard the learned counsel for the parties.

The reliance of the learned counsel for the petitioner on Rule 66 of the NDPS is misplaced. The aforesaid Rule 66 of the NDPS relates to psychotropic substances and therefore, is not applicable to ‘Buprenorphine’ which is admittedly a ‘narcotic drug’ under the NDPS Act.

As stated by learned State counsel, the intoxicating tablets, allegedly recovered in the present case, fall under the category of ‘commercial quantity’. Section 37 NDPS Act bars the grant of bail to the accused in case of ‘commercial quantity’.

The Hon'ble Supreme Court, in Criminal Appeal No.1001- 1002 of 2022, titled as 'Narcotics Control Bureau Vs. Mohit Aggarwal', decided on 19.07.2022, has held that length of the period of custody of the accused or the fact that the charge-sheet has been filed and the trial has commenced, are by themselves not considerations that can be treated as persuasive grounds for granting relief to the accused under Section 37 NDPS Act. Moreover, the petitioner is involved in other cases under the NDPS Act, as per the affidavit dated 08.08.2020 filed on behalf of the respondent-State, the petitioner stands acquitted in 07 cases, convicted in 06 cases.

Considering the same, at this stage, no justifiable ground is made out to extend the concession of regular bail to the petitioner.

Consequently, the present petition stands dismissed.

12.10.2022

Mangal Singh

(HARNARESH SINGH GILL)

JUDGE

Whether reasoned/speaking? Yes/No

Whether reportable? Yes/No