

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

CRM-M-52001-2021

Date of decision : 03.02.2022

Rohit Kumar

... Petitioner

Versus

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Samuel Gill, Advocate
for the petitioner.

Mr.Karanbir Singh, AAG, Punjab.

(Through Video Conferencing)

VIKAS BAHL, J.(ORAL)

This is a first petition for grant of regular bail to the petitioner in FIR no.134 dated 28.05.2019 registered under Sections 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short “NDPS Act”) at Police Station City Kharar, District SAS Nagar (Mohali), Punjab.

The FIR in the present case was registered on the allegation that on 28.05.2019 in the area of Sunny Enclave, Gururdwra T point near Booth market, the petitioner was found in possession of 100 injections of Bupine of 2 ml. each and 100 injections of Avil of 10 ml. each without any permit or licence. The petitioner was taken into custody on 28.05.2019.

As per the report of Chemical Examiner, the injections of Avil contained the salt Phenirmamine Maleate, which is not covered under the NDPS Act. However, each Bupine injection contained the salt

liquid and thus, the petitioner was found in possession of 200 ml./grams of Buprenorphine.

Learned counsel for the petitioner has submitted that the petitioner has been in custody since 28.05.2019 and there are as many as 15 prosecution witnesses out of which one witness has been examined. It is further submitted that the custody period of the petitioner is more than two years and 8 months and the trial is likely to take time moreso, in view of the present pandemic and thus, on account of his custody alone, the petitioner is entitled to regular bail. It is further submitted that the petitioner is not involved in any other case and even in the present case, the petitioner has been falsely implicated. Learned counsel for the petitioner has placed reliance upon the judgment of coordinate Bench of this Court in ***Sukhwinder Singh @ Vicky vs. State of Punjab*** reported as ***2021(1) RCR (Criminal) 177*** in which case also, there was recovery of 70 injections of Buprenorphine made from the petitioner therein, and after considering all the legal aspects, including the bar under the provision of Section 37 of the NDPS Act, the coordinate Bench of this Court was pleased to release the petitioner therein on regular bail.

Learned State counsel, on the other hand, has opposed the present petition for regular bail.

This Court has heard learned counsel for the parties and has perused the paper book.

It is not in dispute that the petitioner has been in custody since 28.05.2019 and the investigation in the present case is over and challan has already been presented and there are as many as 15 prosecution witnesses and out of them, only one witness has been examined and the petitioner has

been in custody for the last more than 2 years and 8 months and the trial is likely to take time moreso, in view of the present pandemic and the petitioner is stated to be not involved in any other case. Learned counsel for the petitioner has relied upon the judgment of a coordinate Bench of this Court in ***Sukhwinder Singh @ Vicky's*** case (supra) wherein, in similar circumstances, the petitioner therein was granted regular bail. The question as to whether the petitioner has been falsely implicated in the case or not, would be a matter of trial and the fact that the petitioner has been in custody since 28.05.2019 and that the trial is not likely to conclude in near future moreso, in view of the present pandemic, would entitle the petitioner to grant of regular bail, also keeping in view the fact that keeping the petitioner in further incarceration, would be in violation of Article 21 of the Constitution of India.

Keeping in view the above said facts and circumstances, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail / surety bonds to the satisfaction of the concerned trial Court/ Duty Magistrate and subject to him not being required in any other case. The petitioner shall also abide by the following conditions:-

1. The petitioner will not tamper with the evidence during the trial.
2. The petitioner will not pressurize / intimidate the prosecution witness(s).
3. The petitioner will appear before the trial Court on the date fixed, unless personal presence is exempted.
4. The petitioner shall not commit an offence similar to the offence of which he is accused of, or for commission of

which he is suspected.

5. The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

In case of breach of any of the above conditions, the prosecution shall be at liberty to move an application for cancellation of bail, before this Court.

Nothing stated above shall be construed as a final expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

(VIKAS BAHL)
JUDGE

February 03, 2022

Davinder Kumar

Whether speaking / reasoned

Yes/No

Whether reportable

Yes/No