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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Case No. : CRM-M-840-2023

Date of Decision : April 11, 2023

Rahul Petitioner

vs.

State of Haryana Respondent

CORAM : HON'BLE MR. JUSTICE GURBIR SINGH.

* * *

Present : Mr. N.K.Khepar, Advocate
for the petitioner.

Mr. Karan Sharma, DAG, Haryana.

* * *

GURBIR SINGH, J. :

Prayer in this petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in case FIR No.601 dated 15.09.2022, under Sections 22(c) and 29 of the NDPS Act, 1985, registered at Police Station Suraj Kund, Faridabad, District Faridabad (Annexure P-1).

Status Report by way of additional affidavit of Abhimanyu Goyat, HPS, Assistant Commissioner of Police, Badkhal, District Faridabad, has been filed today in Court on behalf of State of Haryana, which is ordered to be taken on record.

As per allegations, the petitioner was found in possession of 18 injections of Buprenorphine on 15.09.2022 without any permit or license.

Learned counsel for the petitioner has submitted that the petitioner is aged about 26 years. He is a drug addict. He has been taking

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drugs for the last 3/4 years. The petitioner was keeping the said injections for self-consumption. As per Rule 66 of the NDPS Rules, 1985, a person is entitled to keep 100 doses of Buprenorphine injection for his personal use. The family members of the petitioner also got him admitted on 29.08.2022 in District Red Cross Society, De-Addiction-cum-Rehabilitation Centre, Faridabad. A copy of the OPD Card, issued by the said Society, is Annexure P-2. The above-said injections were supplied by one Aman, who has already been granted bail vide order dated 22.11.2022, passed by learned Special Judge, Faridabad.

In support of his contentions, learned counsel for the petitioner has placed reliance on different judgments passed by Co-ordinate Benches of this Court i.e. CRM-M-25084-2020 titled Harsh Verma vs. State of Punjab, decided on 19.01.2021; CRM-M-21429-2021 titled Sharma Singh @ Shamma vs. State of Punjab, decided on 15.12.2021; CRM-M-34170-2019 titled Harpreet Kaur @ Happy vs. State of Punjab, decided on 27.08.2019; CRM-M-3328-2019 titled Nishant Jain vs. Union Territory of Chandigarh, decided on 14.02.2019; CRM-M-2569-2022 titled Charanjit Kaur vs. State of Punjab, decided on 03.02.2022; CRM-M-38986-2018 titled Nitin Rajput @ Raman vs. State of Punjab, decided on 19.11.2018 and CRM-M-33961-2019 titled Pawan Kumar @ Lucky vs. State of Punjab, decided on 15.09.2021.

On the other hand, learned State counsel has opposed the prayer made by learned counsel for the petitioner by submitting that the sample was sent to RFSL, Bhondsi, Gurugram. However, report of RFSL,

Bhondsi, Gurugram has not been received yet. It is a case of manufactured drug on which Buprenorphine was clearly mentioned. The challan is already presented. The case is pending for awaiting report of RFSL. It has been further submitted that the petitioner has failed to produce any prescription that the recovered injections were prescribed to him by any Medical Practitioner. The recovery of injections from the petitioner is of commercial quantity. Therefore, the petitioner is not entitled for bail.

Heard.

In case **Harpreet Kaur @ Happy (supra)**, 13 injections of Buprenorphine, each containing 02 ml were found in possession of the petitioner. The bail was granted to the petitioner. In case **Charanjit Kaur (supra)**, 15 injections of Buprenorphine and 15 injections of Avil were recovered. Keeping in view Rule 66 of the NDPS Rules read with Section 21 of the NDPS ACT, which permits possession of up to 100 doses for personal medical use at a time, the bail was granted relying on **Hussain vs. State of Kerala – 2000(4) RCR (CrL.) 348 (SC)** and it was held that Buprenorphine Hydrochloride found in possession of the appellant was not in breach of the Rule 66 of the NDPS Rules.

Accordingly, without discussing the merits of the case, I am prima facie of the view that the point in issue appears to be debatable. The petitioner is not involved in any other case. He is in custody since 15.09.2022. Since the completion of trial will take a long time, the present petition is allowed and the petitioner is directed to be released on regular bail, on his furnishing bail bonds/surety bonds, to the satisfaction of learned

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Trial Court/Duty Magistrate concerned.

However, nothing contained herein above shall be construed as
an expression of opinion on the merits of the case.

April 11, 2023
monika

(GURBIR SINGH)
JUDGE

<i>Whether speaking/reasoned ?</i>	<i>Yes/No.</i>
<i>Whether reportable ?</i>	<i>Yes/No.</i>