

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

CRM-M-4796-2023
Date of Decision:-**28.04.2023**

DINESH KUMAR ALIAS DESU

... Petitioner

Versus

STATE OF PUNJAB

... Respondent

-.-

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

-.-

Present:- Mr. Harkirat Singh Bhogal, Advocate
for the petitioner.

Mr. Chaman Lal Pawar, Addl. A.G. Punjab.

-.-

KARAMJIT SINGH, J. (Oral)

1. The petitioner has approached this Court seeking grant of regular bail in a case having FIR No.56 dated 14.07.2022 registered under Sections 21/22/29 of NDPS Act and Section 25 of Arms Act, at Police Station Balachaur, District S.B.S Nagar (Nawanshahar).
2. The allegations in nut-shell are that police recovered 12 grams of heroin and 13 injections of Buprenorphine 2 ml. each and 13 injections of Avil 10 ml. each on 14.7.2022 from the petitioner, who was arrested at the spot.

3. The counsel for the petitioner submits that the petitioner has been falsely implicated in the present case and there is no independent corroboration to the case of prosecution. The counsel for the petitioner further submits that as per recovery memo which is taken on record, police recovered 13 injections of Buprenorphine 2 ml. each having no batch number. While referring to report of FSL (Annexure P-2), the counsel for the petitioner submits that it appears that none of the said 13 injections of Buprenorphine 2 ml. were sent for analysis and according to said report of FSL, 13 injections, which were sent for analysis were labelled as Leegestic. That thus the prosecution has failed to connect the report of FSL with recovery of 13 injections of Buprenorphine. The counsel for the petitioner further submits that the petitioner is in custody for the last 6 months and after completion of investigation, challan has been presented. The counsel for the petitioner further submits that it will take considerable time for the trial to conclude. So prayer is made that the petitioner, who is having no criminal history be released on bail.
4. The instant petition is resisted by the State counsel, who submits that recovery of 13 injection of Buprenorphine comes under the commercial quantity and is covered under strict provisions of Section 37 of NDPS Act. However, the State counsel has not disputed the fact that recovery of 12 grams of heroin comes under non-commercial quantity and recovery of 13 injections of Avil is not covered under the NDPS Act. The State counsel further submits that the articles which were recovered from the possession of the petitioner were sent for

analysis to FSL in a sealed condition and on analysis the recovery effected from the petitioner comes under commercial quantity. The counsel for the State further submits that at this stage, no ground is made out to grant bail to the petitioner.

- 5. I have considered the submissions made by counsel for the parties.
- 6. It appears that in the recovery memo, it is mentioned that 13 injections of brand Bupernorphine 2 ml. each having no batch number were recovered along with some other articles. However, as per the report of FSL the injections which were sent for analysis were labelled Leegesic 2 ml. each. So it is moot point ‘as to whether report of FSL (Annexure P-2) is co-related with recovery memo dated 15.07.2022’?
- 7. Admittedly the petitioner is in custody for the last 6 months and is having no criminal antecedents and investigation stands completed but the trial is at its initial stage. In view of the above, as it will take considerable time for the trial to terminate, so no fruitful purpose is going to be served by prolonging judicial custody of the petitioner for indefinite period.
- 8. Thus, without commenting on the merits of the case, the petition is allowed and the petitioner is ordered to be released on bail subject to his furnishing bail and surety bonds to the satisfaction of the trial Court/CJM/Duty Magistrate concerned.

28.04.2023
Gaurav Sorot

(KARAMJIT SINGH)
JUDGE

Whether reasoned / speaking?	Yes / No
Whether reportable?	Yes / No