

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-M-18468-2022

Date of Decision: 20.4.2023

Gurpreet Singh @ Guri

....Petitioner

VERSUS

State of Punjab

....Respondent

CORAM:- HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Yashpal Thakur, Advocate
for the petitioner.

Mr. Hakam Singh, AAG, Punjab.

KARAMJIT SINGH, J.

Prayer in the present petition under Section 439 of Code of Criminal Procedure is for grant of regular bail to the petitioner in case FIR No.97 dated 12.11.2021 registered for the offences punishable under Sections 22(c) of NDPS Act at Police Station Kheri Noudh Singh, District Fatehgarh Sahib.

Counsel for the petitioner submits that the petitioner has been falsely implicated in the present case and is incarcerated since 12.11.2021; that as per allegations appearing on record, the police recovered 20 injections of Buprenorphine IP Leegesic 2 ML having batch number DA284, manufacturing date June, 2021 and expiry date as May, 2023 and 20 vials of Avil Pheniramine Maleate 10 ML each having batch number 2121 206, manufacturing date August 2021 and expiry date June, 2024. He further submits that as per prosecution version, two injections of Buprenorphine IP Leegesic 2 ML and to vials of Avil Pheniramine Maleate

10 ML out of the aforesaid recovered contraband were separated as samples and sent for analysis to FSL and report of FSL was received. He, while referring to report of FSL dated 5.1.2022, submits that as per said report, two injections and two vials which were sent to FSL for their analysis were not bearing any batch number, manufacturing date and expiry date, thus, making it apparent that none of the injections or vials recovered at the spot were sent for analysis to the FSL. He further contends that thus, the entire process of recovery has been vitiated.

Counsel for the petitioner further contends that even otherwise, no independent witness was associated by the investigating officer during recovery proceedings which were carried out at the spot. He further submits that the petitioner is having no criminal history and that the trial is not progressing further and as such, the petitioner is entitled to grant of regular bail.

Present petition is contested by the State counsel who submits that 20 injections of Buprenorphine IP Leegesic 2 ML each bearing batch number, date of manufacture and expiry date and 20 vials of Avil Pheiramine Maleate 10 ML each bearing batch number, date of manufacturing and expiry date were recovered from possession of the petitioner, out of which, two injections of Buprenorphine IP Leegesic 2 ML each and two vials of Avil Pheniramine Maleate 10 ML each were separated as samples which were properly sealed and sent for analysis to FSL. State counsel further submits that seal on the said samples was found to be intact as is evident from report of FSL. State counsel further submits that batch number, manufacturing date and expiry date may not have been recorded in the report of FSL due to inadvertence and as such, said discrepancy is not

fatal to the case of the prosecution. He further submits that total quantity of contraband recovered from the petitioner comes under commercial quantity and as such, embargo provided under Section 37 of NDPS Act is applicable to the instant case and resultantly, the petitioner is not entitled to grant of bail at this stage when the trial is under progress.

I have considered the submissions made by the counsel for the parties.

It is the case of the prosecution that 20 injections of Buprenorphine injection IP 2 ML each having batch number, manufacturing date and expiry date and 20 vials of Avil Pheniramine Maleate 10 ML each having batch number, manufacturing date and expiry date were recovered from the possession of the petitioner by the police on 12.11.2021 and out of the said contraband, 2 injections of Buprenorphine injection IP Leegesic 2 ML each having batch number, manufacturing date and expiry date and 2 vials of Avil Pheniramine Maleate 10 ML each having batch number, manufacturing date and expiry date were sent as samples to the office of FSL for their analysis. As per report of FSL dated 5.1.2022, the said samples were received by FSL concerned in the shape of sealed parcel and on opening the same, the parcel was found to be containing 2 injections of Buprenorphine injection IP Leegesic 2 ML each and 2 vials of Avil Pheniramine Maleate 10 ml each. However, report of FSL is silent as to whether any batch number, manufacturing date and expiry date was written on the said samples, thus, making it doubtful as to whether the said report of FSL is relating to contraband recovered from the petitioner as is fully detailed in the FIR. Further, there is nothing on record to show that the petitioner is likely to commit any such offence in future while on bail. In the

present case, the petitioner is in custody since 12.11.2021 and is not involving in any other case under NDPS Act.

In view of above, this Court is of the opinion that parameters of bail available under Section 37 of NDPS Act appeared to have been satisfied in the present case.

In view of the above, without commenting on the merits of the case, the present petition is allowed and the petitioner is ordered to be released on regular bail subject to his furnishing bail bonds/surety bonds to the satisfaction of the trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.

(KARAMJIT SINGH)
JUDGE

April 20, 2023
Paritosh Kumar

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