

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

221/1

CRM-M-27693-2023
Date of decision : 27.07.2023

Mandeep Singh @ Bitta Petitioner
versus
State of Punjab Respondent

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Prateek Pandit, Advocate
for the petitioner.

Mr. Amit Shukla, AAG, Punjab.

PANKAJ JAIN, J. (Oral)

Prayer is for grant of regular bail in FIR No.178 dated 23.08.2017, registered for offence punishable under Section 22 of NDPS Act, at Police Station Division No.1, District Jalandhar.

2. Counsel for the petitioner submits that the recovery alleged to have been effectuated from the petitioner is 05 intoxicant injections of Buprenorphine of 2 ml each, which is non-commercial quantity and thus rigors of Section 37 of NDPS Act will not be attracted. Counsel further submits that the petitioner has no antecedents of being involved in any other case under NDPS Act.

3. Counsel for the petitioner further refers to the order passed by Special Judge, Jalandhar wherein the quantity recovered from the petitioner is alleged to be commercial one and draws attention of this Court to the notification issued wherein the commercial quantity for Buprenorphine is 20 gm to contend that the learned Court erred in calculating the quantity and in fact it will be a non-commercial quantity and thus rigorous of Section 37 would not be attracted. He further submits that conversion from ml to gms depends upon density. For water 01 ml = 1 gm, whereas for Sugar 1 ml = .87 gms. In the absence of there being anything on record, an erroneous finding has been recorded by the learned trial Court that the contraband recovered from the petitioner is of commercial quantity.

4. Learned counsel for the State is not in a position to controvert the aforesaid assertions made by counsel for the petitioner based on record.

5. I have heard counsel for the parties and have gone through the records of the case.

6. As per the allegations levelled in the FIR, 05 injections of Buprenorphine 2 ml each were recovered from the petitioner. The petitioner was admitted to bail but absented himself from the trial and was declared as 'proclaimed person'. He was arrested in January 2022 and since then he is in custody. It is not disputed that the investigation already stands concluded and most of the witnesses being official, there is no apprehension that the petitioner shall tamper with the same. The contraband recovered from the petitioner is non-commercial and hence rigorous of Section 37 will not be attracted. There is no history of the petitioner being involved in any other FIR for offence punishable under NDPS Act. Though the petitioner has misconducted himself at the earlier occasion, thus to weed out the risk of the petitioner absconding again, trial Court is directed to release him on bail after taking heavy surety and in addition to the conditions that may be imposed by the trial Court, following conditions are imposed while releasing the petitioner on bail:-

- (i) The petitioner shall not mis-use the liberty granted.
- (ii) The petitioner shall not tamper with any evidence oral or documentary during the trial.
- (iii) The petitioner shall not absent himself on any date before the trial.
- (iv) The petitioner shall not commit any offence similar to the one alleged in the present case.
- (v) The petitioner shall deposit his passport, if any with the trial Court.

- (vi) The petitioner shall give his cellphone number to the police authorities and shall not change his cellphone number without permission of the trial Court.
- (vii) The petitioner shall not in any manner try to delay the trial.

7. In case of breach of any of the aforesaid conditions and those which may be imposed by the Trial Court, the prosecution shall be at liberty to move cancellation of bail of the petitioner.

8. Petition stands allowed.

(PANKAJ JAIN)
JUDGE

27.07.2023
Dinesh

Whether speaking/reasoned :	Yes
Whether Reportable :	No