

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

CRM-M-31739-2022

Date of Decision: 05.05.2023

LAKHWINDER SINGH @ LAKHWINDER @ JOGA

..... PETITIONER

VS

STATE OF PUNJAB

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE GURBIR SINGH

Present : Mr. Vishal Pundir, Advocate for
Mr. Jitender K. Sehrawat, Advocate for the petitioner.

Ms. Himani Arora, AAG, Punjab.

GURBIR SINGH, J. (ORAL)

The present petition has been filed under Section 439 Cr.P.C. for grant of regular bail to the petitioner in case bearing FIR No. 20 dated 25.01.2020 under Sections 22 NDPS Act registered at Police Station Phillaur, District Jalandhar Rural.

As per prosecution version, 50 injections of Buprenorphine and 50 injections of AVIL were recovered from the polythene bag carried by the petitioner in his right hand.

Learned counsel for the petitioner submits that Section 50 of NDPS Act was not complied with. Challan has already been presented and the petitioner is in custody since 25.01.2020. As per Rule 66 of the

CRM-M-31739-2022

-2-

NDPS Act, 1985, a person is entitled to keep 100 doses of Psychotropic Substance without any prescription. He further submits that he is involved in one another case but that case has already been decided and same was not of commercial quantity.

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-M34170-2019 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; CRMM-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.

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 (CrI.) 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.

Learned State counsel has opposed the prayer made by the learned counsel for the petitioner. She has filed the custody certificate and the same is taken on record. She further submits that the petitioner is in custody for last 3 years 3 months and 7 days as on 04.05.2023.

Heard.

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 completion of trial will also take a long time, no useful purpose would be served by keeping the petitioner behind bars for a long period. 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 Trial Court/Duty Magistrate, concerned.

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

(GURBIR SINGH)
JUDGE

05.05.2023.
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<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>