

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Sr. No.215

Case No. : CRM-M-31758-2023

Date of Decision : August 18, 2023

Sahabuddin @ Gundra
vs.

.... Petitioner

State of Haryana

.... Respondent

CORAM : HON'BLE MR. JUSTICE GURBIR SINGH.

* * *

Present : Mr. Saleem Ahmed, Advocate
for the petitioner.

Ms. Nidhi Gupta, AAG, Haryana.

* * *

GURBIR SINGH, J. :

1. Prayer in this petition filed under Section 439 Cr.P.C. is for grant of regular bail to the petitioner in case FIR No.242 dated 29.12.2021, under Sections 22(c), 29-61-85 of the NDPS Act, 1985, registered at Police Station Dhauj, Faridabad, District Faridabad (Annexure P-1).

2. Status Report by way of affidavit of Sudhir Taneja, HPS, Assistant Commissioner of Police, Mujesar, District Faridabad, has been placed on record, on behalf of State of Haryana.

3. As per allegations, the petitioner was found in possession of 28 injections of Buprenorphine on 29.12.2021, without any permit or license.

4. Learned counsel for the petitioner has submitted that the petitioner has been falsely implicated in the present case. No recovery has been effected from him and the contraband alleged to have been recovered

from his possession, was implanted upon the petitioner. It has further been submitted that one can possess the drug in question for his personal medical use and Co-ordinate Benches of this Court have already given relief of bail in cases where recovery of injections was even up to 50 in number, whereas in the present case, the alleged recovery is only of 28 injections. It has further been submitted that the co-accused in this case has already been granted concession of bail by learned Additional Sessions Judge, Faridabad.

5. 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-2569-2022 titled Charanjit Kaur vs. State of Punjab, decided on 03.02.2022; CRM-M-39390-2021 titled Harinder Singh @ Happy vs. State of Punjab, decided on 18.01.2022 and CRM-M-41779-2020 titled Gurpreet Singh vs. State of Punjab, decided on 17.12.2020.

6. 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 FSL but report thereof has not been received yet. It is a case of manufactured drug on which Buprenorphine was clearly mentioned. The challan is already presented. However, no prosecution witness has yet been examined. 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. Moreover, it has been admitted in the petition itself that the petitioner is also involved in two more cases, out of which, one is under the NDPS Act. Therefore, the petitioner does not

deserve the concession of regular bail.

7. Heard.
8. In various cases, 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 and it was held that Buprenorphine Hydrochloride found in one’s possession caanot be said to be in breach of the Rule 66 of the NDPS Rules.
9. 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 in custody since 29.12.2021. Since the completion of trial will take a long time, no useful purpose would be served by further detention of the petitioner. Accordingly, 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.
10. However, nothing contained herein above shall be construed as an expression of opinion on the merits of the case.
11. Pending applications, if any, shall stand disposed of along with this judgment.

August 18, 2023
monika

(GURBIR SINGH)
JUDGE

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