

CRM-M-37372-2023

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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-37372-2023
Date of Decision: 07.08.2023

Amar Nath

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Prince Chauhan, Advocate for
Mr. Sanjay Verma, Advocate,
for the petitioner.

Ms. Harpreet Kaur, AAG, Haryana.

JASGURPREET SINGH PURI, J. (ORAL)

1. The present petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case bearing FIR No.677, dated 23.10.2022, under Section 22-C of the NDPS Act, registered at Police Station Suraj Kund, District Faridabad.
2. It has been submitted by learned counsel for the petitioner that the allegations against the petitioner were that he was carrying 15 injections of *Buprenorphine* containing 2 ml. each. He further submitted that petitioner is in custody since 23.10.2022 and the investigation of the case has already been completed and challan has also been presented before the competent Court. He further submitted that in fact the petitioner had suffered injuries on his left hand which is also mentioned in the FIR itself and he was carrying only 3 injections of *Buprenorphine* for the medical purpose for his injuries which he was entitled to carry in view of the provisions of Rule 66 of the NDPS Rules, 1985 and so far as the allegations that he was carrying

15 injections of *Buprenorphine* is concerned, the same was fabricated allegation against the petitioner. He further referred to the judgment of this Court passed in “***Sukhwinder Singh @ Vicky Vs. State of Punjab***”, 2021(1) ***RCR (Criminal) 177***, to contend that although the injections were 15 and the total quantity was 30 ml. which is slightly above the commercial quantity prescribed under the NDPS Act, but by virtue of Rule 66 of the NDPS Rules, the doses of 100 injections could be carried for the medical purposes. He also submitted that so far as the fact that he was having injuries and was carrying only 3 injections of *Buprenorphine* for medical purposes, can be taken up as defence at the time of trial and he is not able to disclose the same at this stage. He further submitted that although the petitioner is involved in six more cases out of which three are under the NDPS Act but the petitioner has been falsely implicated in the present case only because of the aforesaid reason that he was earlier involved in three more cases under the NDPS Act. Learned counsel while referring to the FIR submitted that the provision of Section 50 of the NDPS Act was not complied with since the only offer which was given to him was to get himself searched in the presence of the Gazetted Officer and not in the presence of the Magistrate. He further submitted that be that as it may, considering the aforesaid facts and circumstances and also considering the aforesaid judgment passed by this Court in ***Sukhwinder Singh @ Vicky's case (Supra)***, the petitioner may be considered for the grant of regular bail.

3. On the other hand, Ms. Harpreet Kaur, learned AAG, Haryana has stated that it is correct that the petitioner is in custody since 23.10.2022 and the investigation of the case has been completed. She has however opposed the grant of regular bail to the petitioner on the ground that he is

involved in three more cases under the NDPS Act and three cases under the Excise Act and submitted that the total recovered quantity is above 20 ml. and therefore, the present petition deserves to be dismissed.

4. I have heard the learned counsels for the parties.

5. It is a case where the petitioner has already faced incarceration from 23.10.2022 and the allegations against him were that he was caught by the police party who had suspicion that the petitioner is carrying drug injections in the left pocket of lower which was worn by him. This Court is of the view that mere pendency of six cases against the petitioner would not disentitle him for the grant of regular bail in view of the judgment passed by this Court in *Sukhwinder Singh @ Vicky's case (Supra)*. Apart from the above, it can not be ascertained from the FIR itself that an offer was given to the petitioner for getting searched either from the Gazetted Officer or from the Magistrate nor any document of offer of Section 50 of the NDPS Act has been shown by the learned State Counsel in this regard.

6. In view of the aforesaid facts and circumstances, this Court deems it fit and proper to grant regular bail to the petitioner. Consequently, the present petition is allowed and the petitioner is ordered to be released on regular bail on furnishing bail bond/surety bond to the satisfaction of the trial Court/Duty Magistrate concerned, if not required in any other case.

7. However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is only meant for the purpose of decision of present petition.

07.08.2023

Bhumika

(JASGURPREET SINGH PURI)
JUDGE

1. Whether speaking/reasoned: Yes/No
2. Whether reportable: Yes/No