

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

CRM-M-53819 of 2022 (O&M)

DECIDED ON: 13th February, 2023

Parshotam Lal @ Parshotam @ Jeevan

.....PETITIONER

VERSUS

State of Punjab

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN.

Present: Mr. Prateek Pandit, Advocate for petitioner.

Mr. Iqbal Singh Mann, DAG Punjab.

AVNEESH JHINGAN, J (ORAL)

This is second petition seeking regular bail in case of FIR No. 70 dated 6.7.2021, under Section 22 of Narcotic Drugs and Psychotropic Substances Act, 1985, (for short 'NDPS Act') registered at Police Station Satnapura, Phagwara Kapurthala, District Kapurthala.

Earlier petition was dismissed as withdrawn on 10.8.2022.

Brief facts are that the petitioner was apprehended by police party on 6.7.2021. As per the case set up, he was carrying 11 injections of Buprenorphine Hydrochloride in a transparent polythene bag and on seeing the police party he threw the bag.

Learned counsel for the petitioner submits that the petitioner is in custody since 6.7.2021; it is a case of false implication; recovery is marginally higher; petitioner is not involved in any other case under the NDPS Act; investigation is complete; charges were framed and no prosecution witness has been examined.

Learned State counsel opposes the prayer for grant of bail and submits that the recovery is of commercial quantity, petitioner is involved in three FIRs under Excise Act and one under Section 323 IPC.

Quantity specified for Buprenorphine Hydrochloride (salt) is 20 ml as commercial quantity and recovery in the present case is 22 ml .

This Court in similar allegations granted bail to accused (in CRM-M-10276 of 2021) where recovery was marginally higher.

Order dated 17.9.2021, was challenged before the Supreme Court and on 23.1.2023 the following order was passed:

" Delay condoned.

We have heard learned counsel for the petitioner.

Although the order granting bail to the respondent does not disclose the rigours of Section 37 of the NDPS Act yet as the respondent is on post-arrest bail since 17.09.2021 and cooperating with the pending trial, as informed to this Court and it is also not the case of the petitioner that the respondent has even breached the conditions imposed on him while granting bail, we are not inclined to interfere with the impugned order passed by the High Court.

The Special leave petition is, accordingly, dismissed.

Pending application, if any, stands disposed of."

Without commenting upon the merits of the case, considering the nature of recovery and the fact that the petitioner is not involved in any other case under the NDPS Act, though investigation is complete conclusion of trial is likely to take time and that the trial has not proceeded yet, bail is granted to the petitioner on furnishing surety bonds to the satisfaction of the Chief Judicial Magistrate/ Duty Magistrate concerned.

The petition is allowed.

It is clarified that the observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

Since the main case has been decided, the pending application, if any is rendered infructuous.

6th December, 2022
reema

(AVNEESH JHINGAN)
JUDGE

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