

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRM-M-57913-2022

Date of Decision:-21.03.2023

Amandeep Singh @ Deep.

.....Petitioner.

Vs.

State of Punjab.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. Pankaj Garg, Advocate for the Petitioner.

Ms. Ramta Chowdhary, Deputy Advocate General, Punjab.

JASJIT SINGH BEDI, J.(ORAL)

The Prayer in this petition under Section 439 Cr.PC is for the grant of regular bail in case FIR No.107 dated 11.08.2022 under Sections 22/61/85 of the NDPS Act registered at Police Station Sadar, Ahmedgarh, District Malerkotla.

2. The brief facts of the case are that while the police party was on patrolling duty they received secret information that Amandeep Singh @ Deep (petitioner) was habitual of selling intoxicating tablets and would be present at the drain bridge village Gajanmajra along with the contraband waiting for his customers. If a raid was conducted he could be apprehended.

Based on the said allegations the instant FIR came to be registered. Thereafter, the petitioner came to be arrested along with 100 intoxicating tablets.

During the course of investigation the petitioner revealed that he had purchased the said tablets from Mohd. Ilyas. On the basis of the said

disclosure statement Mohd. Ilyas was nominated as an accused and an offence under Section 29 of the NDPS Act was added in the instant FIR. Thereafter Mohd. Ilyas was arrested by the investigating agency.

3. The Counsel for the petitioner contends that he has been falsely implicated in the present case. The various procedural safeguards have not been followed during the course of search and seizure. However, taking the prosecution case to be true, 9.6 grams of Buprenorphine Hydrochloride had been recovered from the petitioner (100 loose tablets). Since the commercial quantity was 20 grams, the petitioner was entitled to the grant of bail as only non commercial quantity had been recovered from him.

4. The Counsel for the State on the other hand while referring to the reply dated 21.03.2023 contends that though non commercial quantity of contraband has been recovered from the petitioner, however, since such offences were on the rise, he was not entitled to the grant of bail. He however fairly concedes that the petitioner is a first time offender and none of the 14 prosecution witnesses have been examined so far.

5. I have heard the learned counsel for the parties.

6. Admittedly, taking the prosecution case to be true, against the commercial quantity of 20 grams, 9.6 grams has been recovered from the petitioner. Therefore, the provisions of Section 37 of the NDPS Act would not apply to the present case. Even otherwise, the petitioner is a first time offender, in custody since 11.08.2022 and none of the 14 prosecution witnesses have been examined so far. Therefore, the further incarceration of the petitioner is not required.

7. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-**Amandeep Singh @ Deep** son of Sh.

Gurnam Singh is ordered to be released on bail subject to his furnishing bail

bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.

8. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

March 21, 2023
Vinay

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No