

241

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-60346-2023

Date of Decision: 06.12.2023

Ajmer Singh @ Soni

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Ashok Giri, Advocate
for the petitioner.

Mr. G.S. Sidhu, AAG, Punjab.

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.74 dated 04.06.2023, under Section 22 of the NDPS Act (Sections 27/29/31 of the NDPS Act and Section 411 IPC added later on) registered at Police Station Sri Anandpur Sahib, District Rupnagar.

2. It has been submitted by learned counsel for the petitioner that petitioner is in custody for about 6 months and the investigation of the case has already been completed and thereafter, challan has also been presented before the competent Court. He further submitted that it is a case where the alleged confiscation of 15 injections of *Buprenorphine* containing 2 ml. each from the petitioner and the other co-accused. He also submitted that the petitioner himself is using the aforesaid injections of *Buprenorphine* for medication purposes and as per Rule 66 of the N.D.P.S. Rule, a person can keep 100 dosage

of *Buprenorphine* without prescription for the purpose of medical use. He further submitted that even earlier also the petitioner was involved in six more cases but in all those cases *Buprenorphine* and other similar kind of material involved were in very small quantity. 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 considering the Rule 66 of the NDPS Rule, the bar contained under Section 37 of the NDPS Act will not apply in the present case even if the commercial quantity as defined under the NDPS Act pertaining to salt of *Buprenorphine* is 20 grams/ml. He submitted that considering the aforesaid facts and circumstances and also considering the aforesaid judgment, he may be considered for grant of regular bail.

3. On the other hand, Mr. G.S. Sidhu, learned AAG, Punjab has stated that so far as the custody of the petitioner is concerned, the same is correct and it is also correct that the investigation of the case has already been completed and thereafter, challan has also been presented before the competent Court. He further submitted that the recovery from the petitioner and the other co-accused was of 15 injections of *Buprenorphine* containing 2 ml each and a stolen scooter.

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

5. It is a case where the alleged recovery of 15 injections of *Buprenorphine* containing 2 ml. each from the petitioner and the other co-accused. This Court dealt with the issue of the quantity of *Buprenorphine* and the applicability of Rule 66 of the NDPS Rules in *Sukhwinder Singh @ Vicky's case (Supra)*. During the course of arguments, it was so stated by the learned counsel for the petitioner that the Dope Test of the petitioner was conducted and

CRM-M-60346-2023

it was found to be positive that the petitioner was using the aforesaid injections of *Buprenorphine* only for the purpose of self medication and since the doses were less than 100, the medical prescription is not required in this regard.

6. Therefore, this court is of the view that in view of the aforesaid facts and circumstances, the aforesaid judgment will be squarely applicable to the petitioner and he deserves the concession of regular bail. 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.

06.12.2023
Bhumika

(JASGURPREET SINGH PURI)
JUDGE

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