

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

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**CRM-M-28474-2023**  
**Reserved on: 16.04.2024**  
**Pronounced on: 18.04.2024**  
*2024:PHHC: 051959*

**TARSEM SINGH @ SEMA**

. . . . PETITIONER

**Vs.**

**STATE OF PUNJAB**

. . . . RESPONDENT

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**CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA**

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Present: - Mr. Amit Kaith, Advocate, for the petitioner.

Mr. Sahil R. Bakshi, AAG, Punjab.

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**DEEPAK GUPTA, J.**

By way of this petition filed under Section 439 CrPC, petitioner prays for his release on regular bail in case FIR No.168 dated 23.10.2022 registered under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 [for short 'the NDPS Act'] at Police Station Sadar Zira, Ferozepur (Punjab.)

2. As per prosecution allegations, on 23.10.2022, petitioner was apprehended by a police party and 97 strips of intoxicating tablets, containing 10 tablets per strip i.e., total 970 intoxicant tablets of brand Buset-Plus bearing a particular batch number, date of manufacturing and expiry were recovered from him. FIR was registered. The analysis of the intoxicating tablets revealed the ingredient thereof as Buprenorphine Hydrochloride & Naloxone Hydrochloride. Average weight of the salt was 124.13 mg per tablet and thus, total quantity of Buprenorphine Hydrochloride was found to be 120.4 gm,

which falls in the commercial category, as the threshold for the commercial category for Buprenorphine Hydrochloride starts from 20 gm.

3. It is contended by ld. counsel that petitioner has been falsely implicated; that alleged recovery effected from the petitioner does not attract the provisions of NDPS Act in view of the exemption under Rule 66 of the Narcotic Drugs and Psychotropic Substances Rules, 1985 [for short ‘the NDPS Rules’]; that possession of Buprenorphine Hydrochloride dosages less than 100 units are allowed without any medical prescription for personal usage; that petitioner is 60% permanently disabled; and that petitioner has no other criminal case pending against him. Ld. counsel also contends that petitioner is in custody for the last more than 1 year and 5 months; that trial may take time to conclude and so, he be grant regular bail.

4. Strongly opposing the bail petition, ld. State counsel submits that the contraband, as recovered from the possession of the petitioner, is more than six times the threshold from which the commercial category starts. Ld. State counsel further submits that the recovery of such a huge quantity of contraband does not fall under the exemption of Rule 66 of the NDPS Rules and that in view of the bar contained in Section 37 of the NDPS Act, petitioner is not entitled for bail.

5. I have considered submissions of both the sides and have appraised the record.

6. As has been held by this Court in ***Dr. Rajinder Singla Vs. State of Punjab, 2015 SCC OnLine P&H 20050***, Buprenorphine Hydrochloride is a psychotropic substance within the meaning of NDPS Act.

7. Rule 66 of the NDPS Rules deals with possession etc. of psychotropic substances. The said Rule reads as under: -

**“66. Possession, etc., of psychotropic substances.-** (1) No person shall possess any psychotropic substance for any of the purposes covered under 1945 rules, unless he is lawfully authorized to possess such substance for any of the said purpose under these rules:

Provided that possession of a psychotropic substance specified in Schedule I shall be only for the purposes mentioned in chapter VIIA.

(2) Notwithstanding anything contained in sub-rule (1), any research institution or a hospital or dispensary maintained or supported by Government or local body or by charity or voluntary subscription, which is not authorised to possess any psychotropic substance under the 1945 Rules, or any person who is not so authorised under the 1945 Rules, may possess a reasonable quantity of such substance as may be necessary for their genuine scientific requirements or genuine medical requirements, or both for such period as is deemed necessary by the said research institution or, as the case may be, the said hospital or dispensary or person:

Provided that where such psychotropic substance is in possession of an individual for his personal medical use the quantity thereof shall not exceed one hundred dosage units at a time:

Provided further that an individual may possess the quantity of exceeding one hundred dosage units at a time but not exceeding three hundred dosage units at a time for his personal long term medical use if specifically prescribed by a Registered Medical Practitioner.

(3) The research institution, hospital and dispensary referred to in sub-rule (2) shall maintain proper accounts and records in relation to the purchase and consumption of the psychotropic substance in their possession.”

8. Keeping in view the above rule, when contention of the petitioner is considered, it is found that it is not the case of the petitioner that he possessed the contraband i.e. psychotropic substance in question, for any of

the purpose covered under the Drugs and Cosmetic Rules, 1945. It is also not his case that he was lawfully authorized to possess such substance. It is further not the case of the petitioner that his possession of the contraband was on behalf of any research institution or a hospital or a dispensary or that any proper accounts or records had been maintained in any such research institution etc. in relation to the purchase and consumption of the psychotropic substances.

9. Ld. counsel for the petitioner has referred to proviso to Rule 66 (2) of the NDPS Rules, in order to contend that possession of Buprenorphine Hydrochloride dosage less than 100 is allowed without any medical prescription for personal use.

10. No doubt that the proviso to Sub Rule (2) of Rule 66 of the NDPS Rules, permits possession of the psychotropic substance by an individual for his personal medical use but in that case, the quantity thereof should not exceed 100 dosage unit at a time. In case, it exceeds 100 dosage unit but not exceeding 300 dosage for personal long term medical use, then the same must be specifically prescribed by a registered medical practitioner.

11. In the present case, petitioner has been found to be in possession of as many as 970 intoxicating tablets, containing the salt of Buprenorphine Hydrochloride, which exceeds the 100 dosages. The total weight of the contraband has been found to be 120.4 gram, which is more than six times the threshold of the commercial quantity, which starts from 20 gm.

12. Having regard to all the facts and circumstances, particularly huge quantity of contraband as recovered from the petitioner, but without commenting anything further on merits of the case, this Court is not inclined

to grant benefit of regular bail to the petitioner and as such, the present petition is hereby dismissed.

Pending application(s), if any, also stand disposed of.

18.04.2024  
*Vivek*

(DEEPAK GUPTA)  
JUDGE

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|-----------------------------------|------------|
| <i>Whether speaking/reasoned?</i> | <i>Yes</i> |
| <i>Whether reportable?</i>        | <i>Yes</i> |