

S. No.221

2024:PHHC:036865

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-35297 of 2023 (O&M)

Date of Decision:14.03.2024

Surinder Singh @ Nikka
Vs.

.....Petitioner

State of Punjab

.....Respondent

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Chandan Singh Rana, Advocate for the petitioner.

Mr. Amandeep Singh, DAG, Punjab.

DEEPAK GUPTA, J. (Oral)

By way of present petition filed under Section 439 Cr.P.C., petitioner has prayed for grant of regular bail in case FIR No.30 dated 05.04.2023 registered under Sections 22/25 (Act No.61 of 1985) of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') at Police Station Jodhan, Ludhiana.

As per prosecution allegations, 300 intoxicating tablets were recovered from possession of the petitioner on 05.04.2023. On analysis, it was found that 180 tablets were containing the salt of Buprenorphine Hydrochloride with average weight of 116 mg per tablet, thus, the total weight of the said 180 tablets was 20.88 grams. The remaining 120 tablets were having the salt of Diclofenac Sodium with average weight of 320 mg per tablet.

Contention of learned counsel for the petitioner is that 20.88 grams of Buprenorphine Hydrochloride as found in 180 tablets, is just marginally higher

than the commercial category which starts from 20 grams; whereas Diclofenac Sodium does not fall within the scope of the NDPS Act.

Learned counsel for the petitioner contends that the petitioner is in custody for the last more than 11 months; that he was earlier convicted in a case i.e. FIR No.84 dated 09.08.2020 registered under Section 22 (Act No.61 of 1985) of the NDPS Act at Police Station Ladhowal, Ludhiana, for keeping in possession of just 13 grams of heroin and he has already completed the sentence of undergone period.

Learned State Counsel has opposed the bail petition on account of the fact that the petitioner is a previous convict.

On instructions from ASI Sukhjit Singh, it is informed by learned State Counsel that out of 10 witnesses cited by the prosecution, 04 have been examined so far.

No doubt that petitioner is a convict in another case but the recovered quantity was 13 grams of heroin, as per the copy of the judgment as placed on record by learned counsel for the petitioner. The petitioner has already completed the sentence in that case.

In the present case, the recovered quantity of contraband is marginally higher than the commercial category; that petitioner is in custody for the last more than 11 months; trial may take long time to conclude and that no purpose shall be served by keeping the petitioner detained.

Having regard to all the afore-said facts and circumstances of the case, but without commenting anything on the merits of the case, the present

petition is allowed. Petitioner is admitted to bail on his furnishing bail bonds and surety bonds to the satisfaction of learned trial Court/ Duty Magistrate concerned, on usual terms and conditions.

March 14, 2024
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(DEEPAK GUPTA)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No