

Aruna @ Runa v. State of U.T. Chandigarh (P&H) : Law Finder Doc Id # 1706224

PUNJAB AND HARYANA HIGH COURT

Before:- Raj Mohan Singh, J.

CRM-M No. 36753 of 2019 (O&M). D/d. 13.1.2020.

Aruna @ Runa - Petitioner

Versus

State of U.T. Chandigarh - Respondents

For the Petitioner:- Mr. Ashish Aggarwal, Advocate.

For the U.T. Chandigarh:- Mr. Gautam Kaile, Advocate for Mr. Rajiv Sharma, APP.

Criminal Procedure Code, 1973, Section 439 - Application for bail - FIR under Section 22 of NDPS Act, 1985 - Recovery of 10 injections of Pheniramine Maleate (10 ml each) and 14 injections of Buprenorphine (2ml each) from possession of petitioner - It is not covered under the schedule of NDPS Act - Buprenorphine is not mentioned in schedule 1 of NDPS Rules but is present in schedule of Act - Bail granted.

[Paras 3 and 5]

Cases Referred :

Ajaib Singh v. State of Punjab, 2012 (2) RCR (Criminal) 330.

Dilip Kumar Virvani v. State of Chattishgarh, 2014 (35) RCR (Criminal) 329

Kismat Singh v. State of Punjab, 2012 (2) RCR (Criminal) 329.

JUDGMENT

Raj Mohan Singh, J. (Oral) - Petitioner seeks grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.262 dated 06.08.2019, registered under Section 22 of Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station Sector 39, Chandigarh.

2. As per allegations in the FIR, petitioner was found in possession of 14 injections of Buprenorphine (2 ML each) and 10 injections of Pheniramine Maleate (10 ML each). Pheniramine Maleate is not covered under the Schedule of the NDPS Act. Controversy with regard to Buprenorphine at serial No.169 of the Notification/Schedule of the NDPS Act would be debatable as to whether it is a psychotropic substance or not.

3. Learned counsel for the petitioner relied upon **Ajaib Singh v. State of Punjab, 2012 (2) RCR (Criminal) 330**, to contend that Buprenorphine is not mentioned in Schedule 1 of NDPS Rules, therefore, provision in terms of Section 8 of the Act would have no application.

4. Similar view was taken in ***Kismat Singh v. State of Punjab, 2012 (2) RCR (Criminal) 329*** whereas a contrary view has come in ***Dilip Kumar Virvani and others v. State of Chattishgarh, 2014 (35) RCR (Criminal) 329***, it would be debatable as to the contraband falling under the ambit of narcotic substance or otherwise.
5. Learned counsel for Union Territory, Chandigarh, has, however submits that the recovered contraband falls under commercial quantity as the entire bulk was sent to Forensic Science Laboratory.
6. Challan has been presented and the charges have been framed. Now, the trial of the case is fixed for 21.01.2020.
7. Learned State counsel further states that the petitioner has some antecedents behaviour of criminal activity arising out of excise cases.
8. The petitioner is in custody since 06.08.2019 and has undergone incarceration about 5 months and 7 days as on 13.01.2020 and the trial of the case may take some time in its culmination.
9. In the light of aforesaid facts and without meaning anything on the merits of the case, it would be just and appropriate to release the petitioner on regular bail.
10. In view of above, the present petition is allowed and the petitioner is ordered to be enlarged on bail, subject to her furnishing adequate bail bonds/surety bonds to the satisfaction of trial Court/Duty Magistrate
11. Nothing expressed herein-above shall be construed to be an opinion on merits of the case.