

IN THE HIGH COURT OF PUNJAB AND HARYANA AT

CHANDIGARH

CRM-M-26825-2015

Date of Decision: September 8, 2015

Rupesh Kumar

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Ms. Sushma Chopra, Advocate,
for the petitioner.

Mr. K.S. Pannu, DAG, Punjab,
for the respondent.

1. *Whether Reporters of local papers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not?*
3. *Whether the judgment should be reported in the Digest?*

NARESH KUMAR SANGHI, J. (Oral)

Prayer in this petition is for grant of anticipatory bail to the petitioner, Rupesh Kumar, son of Ramesh Kumar, resident of House No. C-722, Backside Nirankari Bhawan, Chintu Road, Barnala, who has been booked for having committed the offences punishable under Sections 27C and 36AC of the Drugs and

Cosmetics Act, 1940 (for brevity, 'the 1940 Act'), in a case arising out of FIR No. 183, dated 10.7.2015, registered at Police Station, City, Barnala.

Learned counsel contends that as per prosecution version as many as two hundred and two types of medicines were recovered from the house of the petitioner. Only six types of medicines were sent to the Public Analyst for analysis. Only four samples containing the medicines were found to be adulterated / sub-standard / below standard / spurious. The petitioner had purchased two such medicines against the valid bills/invoices and he cannot be held liable for said medicines. Out of six types of medicines sent for analysis, two types of medicines were found to be less in active ingredients, while two types of medicines were below standard, for which the petitioner had no invoices/memo of purchase. She further submits that the petitioner is a licensed chemist and he had stored the medicines at his house, therefore, he has not committed any offence.

Learned counsel for the State on instructions from Mr. Parabhdeep Singh, Drugs Inspector, Barnala, and ASI Swaran Singh of Police Station, City, Barnala, submits that as per the amendment carried out in the year 2009, few offences under the 1940 Act, are cognizable and the offence punishable under Section 27(C) of the 1940 Act, committed by the petitioner is cognizable one and,

hence, after receipt of the report from Public Analyst, declaring the samples sent by the Drugs Inspector to be misbranded / sub-standard / spurious, a complaint was lodged with the police, on the basis of which the impugned FIR was registered. He further points out that the bills, as is being stated by learned counsel for the petitioner, were never produced before the Drugs Inspector, at the time of recovery of the alleged medicines. Even thereafter, the petitioner never disclosed the said fact. He further submits that even if it is assumed that out of six types of medicines sent for analysis, the petitioner had proper bills for two types of medicines only, still he has no explanation for the remaining two types of medicines which were found to be sub-standard / below standard / spurious.

I have heard learned counsel for the parties and gone through the material available on record.

It is not disputed that the petitioner is a licensed chemist for selling medicines from his shop, but no explanation has been furnished by the petitioner as to how such a huge stock of medicines was found at his house, which was far away from the licensed premises used for selling medicines.

Out of the recovered stock of medicines, as per his wisdom, the Drugs Inspector proposed to send six types of medicines for analysis. The Public Analyst found four types of

medicines to be spurious. Though learned counsel for the petitioner has explained that out of the four types of medicines found to be below-standard/spurious, two types of medicines were purchased against memos/invoices, but she could not furnish any explanation with regard to the remaining two.

Learned counsel for the State has explained that two types of medicines were totally found blank of the active ingredients, which is a serious offence.

In view of totality of the facts and circumstances of the case, this Court is of the considered view that it is not a case where the extra ordinary jurisdiction of this Court should be exercised for extending the benefit of anticipatory bail to the petitioner.

Dismissed.

However, it is made clear that the observations made here-in-above are only for the limited purpose of deciding the present petition for anticipatory bail and the same shall have no bearing on the merits of the case.

September 8, 2015
P Kapoor

(NARESH KUMAR SANGHI)
JUDGE