

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

CRM-M-8674-2015 (O&M)
Date of Decision: 14.10.2015

Gurjit Kumar Gaba

... Petitioner

VS.

State of Punjab

... Respondent

CORAM: HON'BLE MR.JUSTICE SURYA KANT
HON'BLE MR.JUSTICE P.B. BAJANTHRI

- 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?*

Present: Mr. GS Nahel, Advocate for the petitioner

Ms. Reeta Kohli, Addl. AG Punjab with
Mr. Vaibhav Sharma, DAG Punjab

Surya Kant, J.

(1) The petitioner seeks his enlargement on regular bail in FIR No.69 dated 16.04.2013 registered U/S 22/25A/27/29/61/85 of NDPS Act, 420,467,468,471 IPC at Police State Fatehgarh Sahib.

(2) As per the allegations contained in the FIR, the police party led by Inspector Davinder Kumar was patrolling near T-point, Saddo Majra, District Fatehgarh Sahib. A Qualis vehicle of white colour bearing Regd. No.PB-05-K-7070 came from the side of Village Kotla Bhai, which was stopped at the barrier. It was being driven by a young man who disclosed his name as Davinder Singh @ Happy s/o Baljit Singh. Search was conducted and 8½ kg ephedrine was recovered from a polythene envelope lying in the trunk of the vehicle. Davinder Singh was arrested and during

interrogation, more incriminating material was recovered from him. It was revealed that Davinder Singh @ Happy was actually the driver of Jagdish Singh @ Bhola who is stated to be the kingpin of drug mafia. Jagdish Singh @ Bhola was also later on arrested and during his interrogation on 02.12.2013, Bhola is said to have disclosed names of various associates like Dev Raj @ Dev Bahl r/o Delhi, Chuni Lal Gaba (petitioner's father) etc. Dev Raj @ Dev Bahl was arrested on 07.12.2013 and during his interrogation he, like Bhola, is said to have disclosed as to how they have been manufacturing methamphetamine (ICE) in the premises of pharmaceutical unit – Med Care Remedies P.Ltd. in which the petitioner and his father both were directors. The petitioner was allegedly running the affairs of the company and its industrial unit.

(3) Further prosecution version is that the petitioner continued to evade his arrest and he was declared proclaimed offender on 22.05.2014. He was thereafter arrested on 19.06.2014 and as per his disclosure statement, he is said to have got recovered 10kg pseudoephedrine and 600kg contraband powder from the bushes near Sutlej river near Phillaur. The samples of pseudoephedrine and contraband recovered from the petitioner were sent for chemical analysis and as per the report of the Chemical Examiner, parcel No.1 contained 79.28% pseudoephedrine and parcel No.2 contained 89.82% Diphenoxylate hydrochloride.

(4) The petitioner alleges his false implication. He is running the pharmaceutical unit M/s Med Care Remedies P.Ltd. at Kaloh, Tehsil Amb, District Una (HP). The Unit has been granted manufacturing licences by the Drug Controlling Authority (P4) and the petitioner is said to have all the bills of purchase of the 'controlled substances' for manufacturing the drugs. He has further alleged that the CIA staff of Patiala inspected the factory premises on 07.12.2013 and nothing illegal was found. Their manager was arrested on 07.12.2013; local police was not informed; there were no search warrants. The petitioner was later on implicated on the basis of confessional statement of Dev Raj @ Bahal which is inadmissible in evidence. His father was also arrested in a related case only because he was also one of the Director of the company.

(5) Having heard learned counsel for the parties and for the detailed reasons assigned in **Ravi @ Anil Chauhan vs. State of Punjab (CRM-M-11031-2015)** decided on 07.10.2015, the petitioner is found not entitled to the concession of bail. The genuineness of recoveries allegedly got effected by the petitioner would be gone into by the Special Judge at an appropriate stage. As of now, the contraband said to have been recovered from the petitioner's conscious possession is of 'commercial quantity'. There are serious allegations of misuse of the licence obtained under Section 9-A of the NDPS Act by diverting the

pseudoephedrine as a precursor to manufacture methamphetamine (ICE).

(6) Though the petitioner's father – Chuni Lal Gaba has been released on bail by this Court vide order dated 07.10.2015 but the petitioner can draw no advantage or parity therefrom, firstly for the reason that the primary consideration in his father's case was his poor health condition. Secondly, the affairs of the industrial unit were being run by the petitioner though his father is also a director of the company.

(7) Taking into consideration the totality of the circumstances but without expressing any views on merits, bail is declined at this stage.

(8) Dismissed.

(9) The observations made hereinabove shall have no bearing on the merits of the case.

(Surya Kant)
Judge

14.10.2015
vishal shonkar

(P.B. Bajanthri)
Judge

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