

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRM-M-30268-2016

Date of Decision:- 29.11.2016

Puneet Kumar Garg

...Petitioner

VERSUS

State of Punjab

....Respondent

**CORAM : HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR. JUSTICE SUDIP AHLUWALIA**

Present:- Mr. Ishan Gupta, Advocate for the petitioner.

Ms. Reeta Kohli, Addl. AG Punjab.

SUDIP AHLUWALIA, J.

This is the third petition for grant of regular bail u/s 439 of the Code of Criminal Procedure filed on behalf of the petitioner in connection with FIR No.129 dated 19.9.2013, under Sections 21/22/25/27A/29/61/85 of the Narcotics Drugs and Psychotropic Substances Act, 1985 (hereinafter, for short "NDPS Act") and Sections 420, 467, 468, 471, 120-B IPC, registered at Police Station Division No. 6, Ludhiana, District Ludhiana.

2. The earlier two bail petitions were rejected by a Division Bench of this Court, in which, one of us (Surya Kant, J.) was a member. For the sake of convenience, the factual matrix and background as summarized in the detailed order rejecting the first bail petition passed on 18.11.2015 in CRM-M-1159-2014 is set out as below -

"(2) As per the allegations contained in the FIR, one ASI Kashmir Singh headed the police party, was patrolling near Cheema Chowk, Ludhiana. They stated to have received a secret information that Nitin Goyal s/o Pawan Goyal and Pawan Goyal s/o Ruldu Ram, who were

already involved in drug-trafficking, have opened Pharmaceutical Companies known as (i) H.L. Medicines; (ii) Shri Krishna Agencies and (iii) Atlas Pharmaceuticals alongwith their other partners in Ludhiana. Another person, namely, Deepak Soni has also joined hands with them and has set up a Pharmaceutical establishment known as B.G. Pharma at Pindi Estate, Ludhiana and all of them in connivance with each other are dealing in intoxicant medicines like tablets, capsules, syrups, injections and other intoxicant powders without bills, fake bills and by preparing forged documents and by way of conspiring in huge quantities to various godowns and supply from there to Pindi Street, Ludhiana and other areas of Punjab to their customers without bills or fake bills with the help of transporters.

(3) Pursuant to secret information, FIR was registered and raids were conducted, whereupon 8,65,000 intoxicant capsules, 1,34,50,000 intoxicant tablets, 12000 intoxicant injections and 1400 intoxicant small bottles of syrup were recovered.

(4) Admittedly, the petitioner's name does not figure in the FIR. During the investigation, Investigation Officer came to know that petitioner – Puneet Garg used to have conversation with the accused Pawan Goyal and Nitin Goyal on his mobile phone. On suspicion, petitioner Puneet Garg was arrested on 15.10.2013. Based on call details with the accused Pawan Goyal and Nitin Goyal, on 18.10.2013, the petitioner was interrogated by the Investigating Officer. The petitioner – Puneet Garg gave disclosure statement under Section 27 of the Evidence Act. With reference to the disclosure statement, intoxicant drugs i.e. 35 injections of Buprenorphine 2 ml each were recovered from a railway track at Sangrur.

(5) The recovery effected from the petitioner is of 'commercial quantity'. The petitioner is in custody since 15.10.2013.”

3. In rejecting that bail petition, the Division Bench was not inclined to grant any benefit under Rule 66 of the N.D.P.S. Rules, 1985, according to which, even without any medical prescription, 100 doses of such like psychotropic substances could be retained by the petitioner. The basic reason for rejecting the bail prayer in the circumstances was that according to the State counsel, the petitioner is habitual offender and is

involved in several other cases also. The relevant case numbers were specifically referred to in Para 7 & 8 of the said order, which are also mentioned below -

(A) FIR No. 13 dated 6.1.2010, u/s 22/61/85 NDPS

Act, Police Station City Sangrur.

(B) FIR No. 228 of 2012, u/s 22/61/85 NDPS Act,

Police Station Dhuri, District Sangrur.

(C) FIR No. 238 of 2011, u/s 386/506 IPC, Police

Station Sector 3, Chandigarh.

(D) FIR No.209 dated 2.7.2014 under Section 52-A

of the Prison Act and

(E) FIR No.365 dated 4.12.2012 under Sections 419,

420, 467, 468, 471, 120-B IPC, Police Station City

Sangrur.

4. The Division Bench in view of above said factual position was of the opinion that the petitioner had failed to satisfy the ingredients of Section 37(1) (b) (ii) of the Act and thus being a habitual offender, his bail petition was rejected. A few months later, the petitioner filed his second bail petition being CRM-M-9740 of 2016, in which, he contended that he was acquitted in both the previous cases under the provisions of N.D.P.S. Act being FIR No. 13 dated 6.1.2010 as well as FIR No.228 of 2012. As such, the only remaining cases pending against him were those under the provisions of I.P.C. and Section 52-A of the Prison Act. Therefore, the rigors of Section 37 of the NDPS Act were certainly not applicable to him.

5. Having taken the aforesaid submissions into consideration to the effect that no other case under the NDPS Act apart from the present one was pending against the petitioner, the Division Bench nevertheless, deemed it appropriate to dispose of the bail application in following terms -

“(5) Having heard learned counsel for the parties, it appears to us that though the petitioner has been acquitted in two cases under the NDPS Act

referred to in para-7, it would be more expedient that instead of releasing him on bail, a direction to expedite the trial is issued. Since the prosecution is already leading its evidence, we dispose of this petition with the direction to the Special Judge to expedite and conclude the trial before 31.07.2016, if need be, by compelling the prosecution to examine witnesses on weekly basis. The Director General of Police, Punjab shall ensure that the prosecution witnesses remain present for their deposition. Counsel for the petitioner is also directed to cooperate and would not seek unnecessary adjournment.

(6) In the event of delay in conclusion of trial for no fault of petitioner, liberty is granted to move bail application before this Court.”

6. However, when even the last date for conclusion of trial as directed by the Division Bench had lapsed, the petitioner filed the present bail petition in the month of August, 2016, seeking his release. The same has come up for consideration before us on 20.9.2016, 6.10.2016, 19.10.2016 and 3.11.2016. It has been observed that more witnesses have been examined in the meantime. The trial however, could not be completed in spite of sincere efforts on the part of the Ld. Special Judge. Ld. State counsel appears right in contending that it is a case of more than one accused and they too keep on indulging in delaying tactics. Nevertheless, the trial is virtually at the fag end now. For this reason, we are not inclined to release the petitioner on bail at this stage. We request the Ld. Special Judge to complete trial of this case on a top priority basis as expeditiously as possible and preferably before ensuing winter vacations. The trial may be done on a day to day basis as far as practicable.

(Surya Kant)
Judge

(Sudip Ahluwalia)
Judge

November 29, 2016

AS

Whether speaking/reasoned : **Yes/No**

Whether Reportable : **Yes/No**