

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

**CRM-M-6542-2016 (O&M)
Date of Decision: 04.07.2016**

Perdipt Chaudhary & Anr.

. . . . Petitioners

VS.

State of Punjab

. . . . Respondent

**CORAM: HON'BLE MR.JUSTICE SURYA KANT
HON'BLE MR. JUSTICE A.B. CHAUDHARI**

Present:- Mr. RS Cheema, Senior Advocate with
Mr. Arshdeep Singh Cheema, Advocate for the petitioners

Ms. Reeta Kohli, Addl. AG Punjab with
Mr. Hanspal S Virk, AAG Punjab

SURYA KANT, J.

(1) In this petition under Section 439 CrPC, the petitioners seek their enlargement on regular bail in the case FIR No.129 dated 19.09.2013 under Sections 21, 22, 25, 27-A, 29, 61, 85 of the Narcotic Drugs and Psychotropic Substances Act, 1985 and Sections 420, 467, 468, 471 & 120-B IPC registered at Police Station, Division No.6, Industrial Area, Ludhiana.

(2) The two petitioners are son and father, respectively. Petitioner No.1 is the sole proprietor of pharmaceutical industry known as M/s Pioneer Laboratories having its factory premises at Rishi Nagar, outside Jundla Gate, Sector 16, Karnal. The firm was set up in the year 1999 and has been having valid licences issued by the drug authorities of State of Haryana. The firm has also been allocated quota of narcotic drugs by Central Bureau of Narcotics valid upto 31.12.2013. It is claimed that the pharmaceutical unit has always strictly complied with the terms and conditions of licence as well as mandatory provisions of the NDPS Act and the

(3) The Punjab Police is said to have falsely implicated the petitioners in two cases registered under the NDPS Act/IPC i.e. (i) FIR No.173 dated 18.09.2013 under Section 22,61,85 of NDPS Act registered at Police Station Shambhu, District Patiala; and (ii) FIR No.129 dated 19.09.2013 under Sections 21,22,25,27-A,29,61, 85 NDPS Act and Sections 420,467,468,471,120-B IPC registered at Police Station, Division No.6, Industrial Area, Ludhiana. Since the petitioners have separately applied for bail in both these cases, the facts of each case are being briefly noticed.

(4) As per the allegations contained in the FIR No.129 Dated 19.09.2013, police party was on patrolling duty and when it was present at Cheema Chowk, Ludhiana, it got the secret information that Nitin Goyal and his father Pawan Goyal s/o Ruldu Ram rs/o Sardar Nagar, Moga, against whom several cases of drug peddling are already registered, have now set up some new firms at Pindi Street, Ludhiana in their own names or in the names of their accomplices. These firms are named as (i) Goyal Sales Corporation, (ii) Sri Krishna Agency and (iii) Atlas Pharmaceuticals. Two more such like firms named as 'HL Medicines' and 'BG Pharma' have also been set up by their associates. These firms, in connivance with Kamal Goods Carrier, Northern India Goods Pvt.Ltd., NITCO Logistic Pvt.Ltd. and the Amritsar Transport Co.Pvt.Ltd. etc. have brought heavy quantity of intoxicant medicines (tablets, capsules, syrups, injections) and other intoxicant substances and intoxicant powder etc. which have been stored in their godowns. They supply the intoxicant medicines and intoxicant substances without bills or with fake bills. The supplies are made through private transporters on the basis of forged documents, from Pindi Street Ludhiana to their customers in other cities in State of Punjab.

(5) The Assistant Commissioner of Police (Crime), Ludhiana was informed and was requested to reach at the spot to conduct the raid at Transport Nagar, whereupon the godown of Kamal Transport P.Ltd. Plot No.2916, Transport Nagar, Ludhiana was searched and (a) 3,81,000 Parvon Spas Capsules; (b) 2 lacs Carisoma Tablets; (c) 1400 bottles of 100ml each of Rescof syrup were recovered. In another raid at NITCO Logistic Transport Co., (a) 4,84,000 Parvon Spas Capsules; (b) 9 lacs Momolit tablets were recovered. Ramesh Kumar, Branch Manager of Kamal Transport Co.P.Ltd. produced at least 21 bilties/invoices of different dates between 02.08.2013 to 05.09.2013 regarding transportation of these medicines by Chaudhary Pharmaceutical, Karnal, Haryana to Goyal Sales Corporation, Atlas Pharma and Sri Krishna agencies.

(6) Pawan Kumar Goyal was arrested and in his disclosure statement he disclosed that the Parvon Spas intoxicant capsules were requisitioned from Chaudhary Pharma, Karnal even though the Haryana Govt. had imposed a ban thereon w.e.f. May, 2013. The manufacturing factory of those capsules is in Faridabad, Haryana.

(7) Ramesh Kumar s/o Sardari Lal Branch Manager of Kamal Transport Co.P.Ltd. made a statement under Section 164 CrPC before Judicial Magistrate, Ludhiana on 09.10.2013 stating that “we did receive the consignment from Delhi and Karnal. The material was received in closed form from HL Pharmaceuticals, Atlas Pharmaceuticals, Goyal Sales Corporation, Sri Krishna Agency and the same supplied further in closed form itself.”

(8) In the light of the alleged incriminating material referred to above, the petitioners were also named as accused. Arrest warrants were issued but they could not be apprehended. The Judicial Magistrate, First Class, Ludhiana then

issued proclamation against them on 09.02.2015. The petitioners were finally

arrested on 01.05.2015 after they were declared proclaimed offenders and are in custody since then.

(9) We have heard Sh. RS Cheema, learned senior counsel for the petitioners as well as learned Additional AG Punjab.

(10) The foremost contention raised on behalf of the petitioners rests upon the challan-cum-report submitted under Section 173 CrPC, a complete set whereof (P16) has been placed on record. It was vehemently urged that after the critical analysis of the entire material gathered during investigation, the prosecuting agency found the petitioners innocent and recommended for submission of a cancellation report in their favour. However, the petitioners allegedly did not agree to the illegal demand of gratification made by the police officials due to which the recommendations for cancellation of case were reversed and the petitioners have been named as co-accused. It was contended on this premise that there is not an iota of evidence to link the petitioners with the alleged offence.

(11) Secondly, it was urged that the pharmaceutical unit of petitioner No.1 has always meticulously complied with the mandatory conditions of its licence and never ever has been any deviation.

(12) Thirdly, the second petitioner is an aged ailing senior citizen and is suffering from multiple ailments. He is said to have been falsely implicated for no rhyme or reason.

(13) Learned State counsel contrarily urged that the petitioners are involved in a heinous crime and are guilty of misusing the controlled substance allocated for manufacturing life saving drugs as they diverted it towards illicit manufacturing of the synthetic drugs. She maintained that a huge quantity of intoxicant material supplied by the petitioners has been recovered and thus rigors

petitioners could be nabbed only after they were declared proclaimed offenders hence there is every likelihood of their fleeing from justice.

(14) Having given our thoughtful consideration to the rival contentions, we are satisfied that the first petitioner does not deserve the concession of bail at this stage. The pharmaceutical unit at Karnal is admittedly his proprietorship. There are serious allegations of bulk supply of intoxicant substance and powder without bills or on the basis of forged and fabricated documents. Regardless of the opinion given by one of the police officials in the challan (P16), it will be too far-fetched to assume at this stage that the first petitioner is innocent. The petition *qua* him is accordingly dismissed.

(15) As regard to the second petitioner, it is undeniable that he is not a partner or co-proprietor of the pharmaceutical unit. There appears to be no specific allegation of supplying or transporting any intoxicant substance by petitioner No.2 in his individual capacity or on behalf of the firm of his son. The applicability of Section 37(1)(b) of the NDPS Act *qua* petitioner No.2 is thus a debatable issue. That apart, the second petitioner is more than 73 years old and statedly does not maintain good health. He is in custody from last more than one year. The conclusion of trial is likely to take some time. Taking into consideration the totality of the circumstances and without expressing any views on merits, the instant petition *qua* petitioner No.2 is allowed. He is directed to be released on bail on furnishing bail bonds to the satisfaction of the concerned Judicial Magistrate at Ludhiana.

(Surya Kant)
Judge

(A.B. Chaudhari)
Judge

04.07.2016
vishal shonkar