

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-38261-2017 (O&M)

Date of decision: 30.11.2017

Akashdeep Sharma

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. S.K. Passi, Advocate
for the petitioner.

Ms. Rajni Gupta, Sr. DAG, Punjab.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in this petition is for grant of regular bail in FIR No.133 dated 07.07.2017 under Sections 22, 61, 85 of NDPS Act, registered at Police Station City South Moga, District Moga.

Custody certificate of the petitioner dated 22.10.2017 has been filed in the Court today and the same is taken on record.

Counsel for the petitioner submits that recovery from the petitioner is of 175 strips of Alprasave, each containing 10 tablets, 148 strips of Ativan-2MG-Larezepam, each containing 30 tablets and 19 Ampules of Mephenermin-Sulphate. Counsel for the petitioner further submits that the petitioner is in judicial lockup since 07.07.2017. The investigation is complete and challan has been presented. It is further submitted that the petitioner is a partner in M/s Ganpati Pharma, which

possesses a valid wholesale licence issued on 01.06.2015 and as per the terms and conditions of this licence, the firm is authorized to sell the medicines except drugs containing narcotic drugs e.g. Dextropropoxyphene, diphenoxylate, codiene and psychotropic substance namely nitrazepam, pentazocine & buprinorphine & their salts in the formulations. It is submitted on behalf of the petitioner that none of the drug recovered from the petitioner fall in the category, to which the said firm is not entitled to possess or sale the same. Counsel for the petitioner has further submitted that the firm has purchased the aforesaid medicines from another wholesaler chemist and druggist and it will be produced before the trial Court during the course of trial. Counsel for the petitioner has relied upon Rule 65-A of The Narcotic Drugs and Psychotropic Substances Rules, 1985, as amended w.e.f. 25.03.2015 and the same reads as under: -

“65-A. Sale, purchase, consumption or use of psychotropic substances. - No person shall sell, purchase, consume or use any psychotropic substance except in accordance with the Drugs and Cosmetics Rules, 1945.

Provided that sale, purchase, consumption or use of a psychotropic substance specified in Schedule I shall be only for the purposes of mentioned in Chapter VIIA.”

It is thus submitted by counsel for the petitioner that the petitioner, being a partner of M/s Ganpati Pharma, was duly authorized to possess the contraband, which was recovered from him. Counsel for the petitioner submits that the petitioner is not involved in any other case.

On the other hand, learned State counsel, on instructions from

ASI Kuldeep Singh has opposed the prayer for bail on the ground that recovery was not effected from the premises of the said firm and the same was done from the other place.

Without commenting on merits of the case, considering the fact that the petitioner is a partner of wholesale drug chemist and is in judicial lockup since 07.07.2017; prosecution evidence is yet to start and also in view of the fact that the petitioner is not involved in any other case, he is directed to be released on bail subject to his furnishing bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate.

However, it will be open for the prosecution to apply for cancellation of bail in case the petitioner is found involved in any subsequent FIR under the NDPS Act.

Petition is disposed of.

(ARVIND SINGH SANGWAN)
JUDGE

30.11.2017
vishnu

Whether speaking/reasoned Yes/No

Whether reportable Yes/No