

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

CRM-M-45201 of 2016 (O&M)

Date of decision: 31.01.2017

Adish Kumar Jain

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

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

Ms. Harsimrat Rai, DAG, Punjab.

Jitendra Chauhan, J. (Oral)

By filing the present petition, under Section 439 of the Code of Criminal Procedure, the petitioner has sought regular bail in FIR No. 125 dated 10.09.2016, registered under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act'), at Police Station Kot Isah Khan, District Moga.

It is contended that the petitioner has been framed in the present FIR by the police as the petitioner had made a complaint to the authorities for falsely implicating him in FIR No.97 of 2015, registered at PS Zira. The petitioner has already filed a quashing petition wherein prima facie relying on the version of the petitioner, this Court has stayed the proceedings in the matter. The learned

counsel further states that the recovery in the instant case has been allegedly shown from the van driven by one Surjit Singh who is not the employee or agent of the petitioner, whereas the petitioner allegedly ran away from the spot. The recovery has been effected from two places; one from the van and other from the shop of the petitioner which is part of the residential premises. It is further contended that once the police had raided the house of the petitioner on the date of recovery, the version of prosecution that a part of the contraband was effected on the basis of secret information is highly improbable. The contraband allegedly recovered from the shop of the petitioner being a chemist certified by the Punjab State Pharmacy Council, were purchased from M/s Rinku Pharma against valid bills, Annexure P-6. In support of his assertions, the learned counsel refers to CD and photographs (Annexure P-7) to contend that the raid was conducted by the police at his residence at 6.20 a.m. On 10.09.2016. The CD has been brought on record by the wife of the petitioner in CRM-M-33967-2016 as Annexure P-2. The petitioner is in custody since 10.09.2016.

On the other hand, learned State counsel opposes the bail application and states that huge recovery has been effected from the petitioner. However, she is unable to controvert the assertion made by learned counsel for the petitioner with regard to the raiding of the premises of the petitioner by the police at 6.20 a.m., on 10.09.2016.

I have heard learned counsel for the parties and perused the record.

On perusal of photographs (Annexure P-7), the presence of police officials is made out. Considering the fact that the recovery on the basis of secret information i.e. from van was not effected from the conscious possession of the petitioner and the contraband allegedly recovered from the shop of the petitioner had been purchased against a valid bill being a chemist and the fact that the house of the petitioner was raided by the police in the morning, therefore, the version that a part of the recovery was effected in pursuance of the secret information prima facie appears to be improbable at this stage; the petitioner is in custody since 10.09.2016; the conclusion of trial will take a long time, without adverting to the merits of the instant case, this petition is allowed. The petitioner be admitted to bail during the pendency of trial, on her furnishing bail bonds and surety bonds, to the satisfaction of the trial Court.

Anything said herein above shall not be construed as an expression of opinion on the merits of the case.

Needless to mention that the State was directed to file reply, vide order dated 22.12.2016. Despite sufficient opportunities, the reply has not been filed for the reasons best known to it.

Therefore, the Director General of Police, Punjab is directed to look

into the matter and take all remedial steps, so that the same is not repeated in future and initiate appropriate action against the concerned official(s) as per law.

A copy of the order be sent to the Director General of Police, Punjab.

31.01.2017
sumit.k

(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No