

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

CRM-M-34528 of 2018.  
Decided on:-October 30, 2018.

Rajesh Kumar.

.....Petitioner.

Versus

State of Punjab.

.....Respondent.

**CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.**

\*\*\*\*\*

Present:- Mr. D.S. Pheruman, Advocate  
for the petitioner.

Mr. Surinder Pal Singh Tinna, Addl. A.G., Punjab.

**HARI PAL VERMA, J.**

Prayer in this petition filed under Section 438 Cr.P.C. is for grant of anticipatory bail to the petitioner in FIR No.64 dated 05.07.2018 under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, the NDPS Act) registered at Police Station Kalanaur, District Gurdaspur.

As per the FIR, on 05.07.2018, when the police party headed by ASI Davinder Singh was present for search of bad elements at Canal Bridge in the area of village Chaura Kalan, Ramneek Singh, Drug Inspector, Gurdaspur area came present and joined the police party. On his information, a raid was conducted at the house of Rattan Chand son of Kishan Chand. One clean shaven person was found present in his room situated near the outer

gate. On inquiry, he disclosed his name as Rattan Chand. Ramneek Singh introduced himself as a drug inspector and informed that he wanted to search his house for which Rattan Chand stated that he (Ramneek Singh) can search his house. Consent Memo was prepared and the search of the house was conducted on which some intoxicant tablets i.e. Paindon Forte were found lying on the table in two cardboard boxes. In one cardboard box, 20 strips and in the second box, 15 strips were found. In this manner, there were 354 tablets. Besides this, there were 13 packets of Trifluoperazine and Chlordiazepoxide tablets and each packet contained 5 strips and each strip contained 50 tablets. A total number of 33 intoxicant tablets of Alprazolam were also found in loose strips and 48 tablets of Acetaminophen and Tramadol hydrochloride were also found in the strips. Thus, a total 3585 intoxicant tablets were recovered.

It is the case of the prosecution that during interrogation, accused Rattan Chand had disclosed that the aforesaid narcotic drugs were purchased by him from Prince Medical Store, near Railway Crossing, Gurdaspur of which the petitioner is the owner.

Learned counsel for the petitioner has argued that Anil Kumar father of petitioner Rajesh Kumar is a chemist, who has been issued a licence by the Drug Controlling Department, which is valid from 01.01.2018 to 31.12.2022. The co-accused, namely, Rattan Chand against whom the FIR in question was registered has already been admitted on bail and it is in order to widen the net and with *mala fide* intention on the part of the police, the petitioner is being roped in the case. Moreover, in the FIR, there is no

allegation against the petitioner as neither the petitioner was found in the house of Rattan Chand nor he was ever involved in any case. The recovered drugs are standard drugs and fall within the ambit of Drugs and Cosmetics Act, 1940. The issue as to whether the drugs so recovered fall under the Drugs and Cosmetics Act or under the NDPS Act is required to be decided during the trial.

He has further contended that the statement of co-accused Rattan Chand, who disclosed the name of the petitioner is not relevant unless recovery is effected on the basis of statement of the petitioner. The police diary was required to be produced in the Court, but in the case in hand, no police diary has been produced and the police kept the police diary concealed. It is only on 27.07.2018, the offence under Section 29 of the NDPS Act has been added. The provisions of High Court Rules and Orders, Volume III, Chapter-B, 1973 have also not been complied with. Moreover, the recovery of alleged contraband has already been effected and the petitioner undertakes to join the investigation and to appear before the investigating officer. Therefore, the petitioner deserves to be granted anticipatory bail and the drug so recovered being a scheduled drug should be tried under the Drugs and Cosmetics Act, 1940.

In support of his contentions, learned counsel for the petitioner has relied upon ***Darshan Singh Pandit Versus State of Haryana 1996(3) RCR (Criminal) 632, Indra Dalal Versus State of Haryana 2015(3) RCR (Criminal) 342***, judgment dated July 31, 2018 passed by Hon'ble Supreme Court in ***Criminal Appeal No.949 of 2018*** titled as ***Surinder Kumar Khanna***

*Verus Intelligence Officer Directorate of Revenue Intelligence* and the judgment dated 10.10.2018 passed by this Court in *CRM-M-38710 of 2018* titled as *Gurpreet Singh Versus State of Punjab*.

On the other hand, learned State counsel has argued that the FIR in question was registered against co-accused Rattan Chand and 354 tablets Paindom Fort, 3250 tablets Trifluo perazie and Chloridiazepoxide, 33 tablets Alprazolam and 48 tablets Acetaminophen & tramadol hydrochloride tablet USP dolomed were recovered. During investigation, co-accused Rattan Chand disclosed the name of petitioner Rajesh Kumar, from whom the drugs were purchased by Rattan Chand whereafter the petitioner was nominated as an accused vide case diary No.7 dated 20.07.2018.

I have heard learned counsel for the parties.

The argument so raised by learned counsel for the petitioner that the petitioner has been nominated as an accused merely on the basis of statement of co-accused Rattan Chand cannot be accepted at this stage, when a huge quantity of contraband has been recovered from Rattan Chand, who had disclosed that it is the petitioner, who supplied the said contraband. Thus, the statement of co-accused cannot be brushed aside lightly particularly when he disclosed that the huge stock was being supplied by the petitioner.

The plea of the petitioner that the recovered contraband is required to be dealt with under the Drugs and Cosmetics Act, 1940 and not under the NDPS Act is not relevant at this stage as it is a matter of trial. Therefore, considering the serious allegations levelled against the petitioner,

this Court finds that no case is made out for grant of anticipatory bail to the petitioner.

Further, the judgment cited by learned counsel for the petitioner in ***Darshan Singh Pandit's case (supra)*** is not applicable in the present case as the facts of that case were altogether different. So far as remaining three judgments cited by learned counsel for the petitioner are concerned, the same are also not applicable in the peculiar facts and circumstances of the present case, as those cases are not related to the relief of anticipatory bail.

Accordingly, the present petition, being devoid of any merit, is dismissed.

The observations made hereinabove shall not be construed as an expression of opinion on the merits of the case.

**October 30, 2018**  
Yag Dutt

**(HARI PAL VERMA)**  
**JUDGE**

Whether speaking/reasoned: Yes

Whether Reportable: No