

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-42835-2018 (O&M)

Date of decision:17.12.2018

Ashwani Kumar Gakhar

.....Petitioner

versus

State of Punjab

....Respondent

CORAM: Hon'ble Mr. Justice Kuldeep Singh

Present: Mr. Sandeep Kumar Passi, Advocate for the petitioner.

Mr. Karanbir Singh, AAG,Punjab.

Kuldeep Singh, J. (Oral)

CRM-37703-2018

Application is allowed as prayed for, subject to all just exceptions.

Annexures P-6 Colly and Annexure P-7 Colly as per order dated 27.09.2018 and 05.10.2018, passed by this Court, respectively, are taken on record.

Application stands disposed of.

CRM-M-42835-2018

Affidavit of Jaspal Singh, PPS, Deputy Superintendent of Police (City), Ferozepur, District Ferozepur, on behalf of respondent State of Punjab along with Annexures R-1/T to R-8/T & R-9 has been filed in Court today is taken on record.

This order will dispose of the petition filed by the petitioner

namely Ashwani Kumar Gakhar under Section 438 Cr.P.C. for grant of anticipatory bail in FIR No.95 dated 02.05.2018 under Section 22 of the NDPS Act, 1985, registered at Police Station City Ferozepur, District Ferozepur, Punjab (Annexure P-1).

As per the contents in the FIR, petitioner have a medical Store at Tokri Bazaar outside Gobar Mandi, Ferozepur. They have taken one godown on rent in a street at Malwal road where they have stored the medicines. On raid, 3,09,600 intoxicant tablets/capsules of different brands were recovered from the store. The petitioner have produced certain bills of purchase and sale thereof. The state was directed to verify the same.

State has verified and stated that out of 07 invoices, 06 invoices were found to be genuine whereas, according to the State, one invoice is not genuine. Whereas, counsel for the petitioner maintained that the same is also genuine. It is further submitted that the petitioner has joined the investigation and disclosed all the facts to the police.

I have heard learned counsel for the parties and carefully gone through the file.

On behalf of the State, it is not denied that the petitioner is a licensed chemist and he has got a license to keep the drugs at a place specified in the license dated 07.10.2015 (Annexure P-2) for the period from 27.05.2015 to 26.05.2020. The drugs stored in this case are covered under the said license. Therefore, the petitioner was legally authorized to store the said drugs. The purchase of drug is an other issue however the petitioner had a license to store the said drugs. The only allegation against

the petitioner is that he stored the drugs at a place other than mentioned in the drug license dated 07.10.2015 (Annexure P-2). If it is so, it will be violation of the Drugs and Cosmetic Act Rules. However it is common knowledge that a large quantity of drugs cannot be stored at the chemist shop and can be stored at godown nearby. Same seems to be happen in the present case that the drugs were stored in a godown which was taken on rent. Since, in this case, prima facie, the petitioner is allegedly violating the conditions of the Drug License dated 07.10.2015 (Annexure P-2), therefore, prima facie provisions of Section 22 of the NDPS Act, 1985 in the present case will not be attracted.

As such, the anticipatory bail granted to the petitioner by this Court vide order dated 06.12.2018, is made absolute.

Petition is accordingly allowed.

(KULDIP SINGH)
JUDGE

17.12.2018
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Whether speaking/ reasoned:	Yes
Whether Reportable:	No