

**CRM No.17730 of 2019 in/and
CRM-M-17743 of 2019**

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

**CRM No.17730 of 2019 in/and
CRM-M-17743 of 2019
Date of decision:05.07.2019**

Pankaj Kumar Verma

... Petitioner(s)

Vs.

State of Punjab

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Gaurav Kathuria, Advocate
for the applicant/appellant.

Ms. Rajni Gupta, Senior Deputy Advocate General, Punjab.

AMIT RAWAL J. (Oral)

This Court while issuing notice of motion had issued interim directions whereby coercive measures apprehended to be taken were prevented.

The applicant-appellant has sought anticipatory bail in FIR No.57 dated 03.04.2019 registered under Section 22 and 29 of Narcotic Drugs and Psychotropic Substance Act, 1985 (in short "NDPS Act"). The allegations in FIR are that on the basis of secret information that one Manjit Singh alias Bunty son of Darshan Singh allegedly working in Dr. Pankaj Verma's de-addiction centre, Model Town Ludhiana had been given medicines to the patients who were dependent on drug which were intoxicating. In the investigation, it was found that Manjit Singh alias Bunty and Dr. Pankaj Verma under the name and garb of running de-addiction centre have been illegally supplying the intoxicating tablets, not to the

hospital patients but outside.

Mr. Gaurav Kathuria, learned counsel appearing on behalf of the applicant-petitioner submitted that in 2014, applicant-petitioner started his own practice and obtained Registration Certificate/Licenses (Annexures P-1 and P-2 to run a De-Addiction Centre which are valid upto 2020. As per the version of police, 9100 tables of Addnok-N containing Buprenorphione (2mg per tablet) were allegedly recovered from de-addiction centre but in fact, raid was conducted at the instance of certain vested persons. Premises of the applicant was wholly vandalized. The petitioner is a registered Medical Practitioner within the purview of Indian Medical Council Act, 1986. Rule 65(9)(b) of NDPS Rules provides that supply of drugs specified in Schedule H and Schedule H1 or Schedule X to Registered Medical Practitioners, Hospitals, Dispensaries and Nursing Home shall be made only against signed order in writing to be preserved by the licensee for a period of two years.

There is no provision either in NDPS Act or Drugs and Cosmetics Act, 1940 restricting the discretion of registered medical practitioner regarding quantum of dose of Buprenorphione and therefore, no adverse inference with regard to the bonafide can be drawn from the quantity and duration of medicine or prescription in few cases. The petitioner has a license to open and run de-addiction centre which has been displayed in the centre itself. Issue as to whether doctor who stocks, possess and dispense the medicine to the patients can or cannot be hauled up for offences under the NDPS Act has been laid to rest in judgment dated

25.09.2018 rendered in CRM-M-4643 of 2018 titled as Shashi Bhushan Vs. State of Haryana. Various similarly situated medical professionals as well as licensed drug distributors have approached this Court assailing wholly unwarranted and illegal action of police. The details of which have been given in para 9 of petition. The power of arrest is one thing but no arrest can be made because it is lawful for the police officer to do so. The aforementioned ratio has been culled out by the Hon'ble Supreme Court in **Joginder Kumar Vs. State of U.P. (1994) 4 SCC 260.**

The arrest should be the last option. The petitioner is willing to join the investigation as and when called by the police. Since this Court while issuing notice of motion did not envisage the aforementioned clause and in this regard, civil misc. application bearing no.17730 of 2019 has been filed.

Per contra, Ms. Rajni Gupta, Senior Deputy Advocate General, Punjab submitted that police has not taken any coercive measures but the petitioner has not joined the investigation. Recovery has been affected and custodian interrogation of petitioner is required to ascertain whether the stocking was without bills or invoices and urged this Court for dismissal of petition.

I have heard learned counsel for the parties, appraised the paper book and of view that it is a fit case where petitioner should have been grant the concession of anticipatory bail for the reason that it is yet to be ascertained whether recovery of tablets was against the valid bills/ invoices or not. Moreover, it would be question of trial for prosecution to prove the

same, for, petitioner is a license holder and running the de-addiction centre. Authencity of license is Annexure P-1 and P-2 which are valid upto 2020 have not been disputed.

Accordingly, petition is allowed. In the event of arrest of the petitioner, he shall be released on bail to the satisfaction of the Arresting Officer, subject to the conditions contained in Section 438 (2) Cr.P.C. He will join the investigation as and when required.

July 05, 2019
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Whether Speaking/Reasoned
Whether Reportable

(AMIT RAWAL)
JUDGE

Yes/No
Yes/No