

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

227

CRM-M-26314-2019

Date of decision: 20.12.2019

Deepak Kumar

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Ms. Satwant Mehta, Advocate for the petitioner.

Mr. Arun Kaundal, DAG, Punjab

ARUN KUMAR TYAGI, J (ORAL)

Prayer in the present 1st petition filed under Section 439 of the Code of Criminal Procedure is for grant of regular bail to the petitioner in case FIR No.56 dated 15.03.2019 registered under Sections 22, 25 and 27-A of the N.D.P.S. Act, 1985 at Police Station Ajnala, District Amritsar Rural.

Bail application was opposed by the respondent-State in terms of reply filed by way of affidavit of Harpreet Singh, PPS, Deputy Superintendent of Police, Sub-Division Ajnala, Amritsar (Rural).

In view of the claim made by the petitioner that 13,000 tablets allegedly recovered from the possession of the petitioner were of Batch No. TVD 18139 allegedly sold by distributor J.K. Pharma Agencies, 1349/XII-10, Katra Sher Singh, Amritsar vide Bill No.2610 dated 14.03.2019, respondent-State was directed vide order dated 19.11.2019 to file a short affidavit indicating full particulars of the tablets regarding manufacturer, date of manufacturing and batch number.

Vide order dated 29.11.2019 the respondent-State was directed to file additional reply with better particulars in respect of the genuineness of the bill in question and also as to whether other drugs recovered from the possession of the petitioner fall within prohibition of the NDPS Act.

Additional reply by way of affidavit of Sohan Singh, PPS, Deputy Superintendent of Police, Sub-Division Ajnala, Amritsar-Rural has been filed on behalf of respondent No. 1-State of Punjab today which is taken on record. In the additional reply Sohan Singh, PPS, Deputy Superintendent of Police, Sub-Division Ajnala, Amritsar-Rural has admitted the genuineness of the bill and also that other drugs recovered from possession of the petitioner vide parcel No. 2 and 3 did not fall within the purview of the N.D.P.S. Act.

Learned Counsel for the petitioner has submitted that 13,000 tablets of Clovidol-100-SR were recovered from the possession of the petitioner from Deepak Medical Hall, licence of which is in the name of his wife. No offence was committed by the petitioner by his possession of the said drugs. Other drugs recovered from possession of the petitioner did not fall within the prohibition of the NDPS Act. Section 37 (1)(b) of the NDPS Act is not applicable to his case. The petitioner has been falsely implicated in another case under the NDPS Act registered on death of Kulwinder Singh who is alleged to have purchased intoxicant injection from the chemist shop of the petitioner. The trial is likely to take long time. Therefore, the petitioner may be ordered to be released on regular bail.

On the other hand, learned State Counsel has submitted that the petitioner has committed offences punishable under Sections 22, 25 and 27-A of the NDPS Act by keeping 13,000 tablets of Clovidol-100-SR in his possession and the petitioner does not deserve the concession of regular bail.

Keeping in view the facts and circumstances of the case particularly that the petitioner has disputed the place of recovery of 13,000 tablets of Clovidol-100-SR and claimed the same to have been recovered from godown which was part of the same building at Chogwan Road Ajnala District Amritsar in which Deepak Medical Hall licensed in the name of his wife was being run; that question of his guilt or innocence is to be adjudicated upon during trial which is likely to take time and that rigors of Section 37(1)(b) of the NDPS Act are not

applicable/stand satisfied in the peculiar facts of the case but without expressing any opinion on merits of the case, I am of the considered view that the petitioner deserves the concession of regular bail.

In view of the above discussion, the petition is allowed and the petitioner is ordered to be released on bail on furnishing of bail bonds to the satisfaction of the Trial Court/Chief Judicial Magistrate/Duty Magistrate, Amritsar.

However, in case of commission of any offence of similar nature by the petitioner in future, his bail in the present case shall also be liable to be cancelled on filing of application in this regard.

20.12.2019

kavneet singh

(ARUN KUMAR TYAGI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No