

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-30391-2019 (O&M)
Date of decision: 29.11.2019

Adish Jain

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

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

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for grant of anticipatory bail in FIR No.115 dated 14.06.2019 under Section 22 of NDPS Act and Section 29 of NDPS Act (added later on), registered at Police Station City-1 Abohar, District Fazilka.

While granting interim bail to the petitioner, following order was passed by this Court on 25.07.2019: -

“...Learned counsel for the petitioner submits that the petitioner is being repeated involved in the cases under the NDPS Act. It is further submitted that at the first instance, the petitioner was involved in FIR No.125 dated 10.09.2016 under Section 22 of NDPS Act, Police Station Kot Ise Khan, District Moga. The petitioner was arrested and thereafter, was granted regular bail and ultimately, he was acquitted by the Judge, Special Court, Moga, vide judgment dated 27.03.2019, holding that the charges

against the petitioner have not been proved. Learned counsel further submits that in that case, the petitioner set up a defence that he is holding a valid wholesale drug licence under the name and style of M/s Goldy Pharmaceuticals. Because of his repeated involvement, the petitioner shifted his business from Zira to Ambala.

Learned counsel for the petitioner has further submitted that the petitioner has filed CRM-M-27388-2018 praying for grant of anticipatory bail in FIR No.58 dated 09.06.2018 under Section 22 of NDPS Act, registered at Police Station Mehna, District Moga, in which, while granting anticipatory bail to the petitioner, following order was passed: -

“The operative part of the order dated 09.07.2018, vide which the petitioner has been granted interim bail, is reproduced below:

“Learned counsel for the petitioner submits that recovery of intoxicant tablets containing Tramadol Salt was made from the Vicky son of Surinder Pal and the petitioner is neither named in the FIR, nor any disclosure statement of Vicky son of Surinder Pal was recorded immediately after his arrest. It is further submitted that the petitioner is sought to be involved in the present FIR on the basis of zimni recorded by police that the co-accused Vicky has obtained the tablet from the petitioner. Learned counsel further submitted that even on earlier occasion he was involved in FIR No.125 dated 10.09.2016, registered under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station Kot Isah Khan, District Moga and the petitioner was granted regular bail vide order dated 31.01.2017 passed in CRM-M-45201 of 2016 noticing the fact that the recovery in the said case was also made on the basis of the secret information and the recovery

was made against a valid bill by purchasing the same from the chemist shop of the petitioner. Learned counsel for the petitioner has also submitted that the petitioner is also involved in FIR No.96 dated 06.05.2015 under Section 32 of the NDPS Act, registered at Police Station Zira and in that FIR, the petitioner has filed CRMM-5008 of 2016 praying for quashing of the aforesaid FIR and on 11.02.2016, the following order was passed by this Court:-

“Learned counsel for the petitioner contends that father of the petitioner possessed the retail sale drugs licence. While making reference of document (Annexure P-5), he further submits that a retail sale drugs licence holder can keep the tablet Becalm (Salt Alprazolam 0.5) and is required to maintain the record of sale and purchase of this medicine. As regards the tablet Fortadol-DM (Salt Tramadol+Domperidone) is concerned, it is general pain killer and antiemetic and, therefore, does not fall within the purview of the Narcotic Drugs and Psychotropic Substances Act, 1985. Notice of motion for 21.4.2016. In the meanwhile, proceedings before the trial Court shall remain stayed.”

It is further submitted that this petition is still pending and the proceedings have been stayed. It is also submitted that since the petitioner was repeatedly involved in the cases, he has shifted his business from Zira(Punjab) to Ambala in Haryana and as per the allegation in the present FIR, the recovery which has been effected from the co-accused Vicky is allegedly given by the petitioner without noticing the fact that the petitioner is now doing his business in Ambala. List on 27.09.2018.”

Learned counsel for the petitioner submits that petitioner, in pursuance to the order dated 09.07.2018, has already appeared before the SHO/Investigating Officer and has joined the investigation.”

Learned counsel for the petitioner has next submitted that in the present case, as per allegations in the FIR, which was registered on receiving a secret information that two persons namely Rupinder Singh and Jatinder Singh are involved in the business of intoxicant tablets and from them, 11350 intoxicant tablets were recovered. During the investigation, they disclosed the names of Vishal Nagpal and Rinku. It is further submitted that in the absence of any disclosure of any of the co-accused, the police is involving the petitioner in the present FIR for extraneous consideration, as he is previously involved in other FIRs as well. Learned counsel has also argued that in fact, the petitioner is running a wholesale medical store under the name and style of M/s Oajas Healthcare in Ambala City and is holding a valid drug licence and has no dealing with any of the accused person.

On a specific query, if in the disclosure of any of the aforesaid four persons, name of the petitioner has figured, it is stated by the Investigating Officer ASI Davinder Singh that no disclosure of all four persons i.e. Rupinder Singh, Jatinder Singh, Vishal Nagpal and Rinku is recorded by the police.

Therefore, in the absence of any such evidence collected so far, during the investigation, I deem it appropriate to direct the petitioner to join the investigation...”

Learned counsel for the petitioner submits that in pursuance of the aforesaid order, the petitioner has joined the investigation and is not required for any further investigation.

Learned State counsel has filed the affidavit of Additional Director General of Police, Crime, Bureau of Investigation, Punjab in the Court today and on instructions from the Investigating Officer, has not disputed the factual

position and states that the petitioner is no more required for any further investigation.

In view of the above, this petition is allowed and the interim bail granted to the petitioner vide order dated 25.07.2019 is made absolute subject to the conditions envisaged under Section 438 (2) Cr.P.C.

29.11.2019
vishnu

[ARVIND SINGH SANGWAN]
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No