

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-13809-2020

Date of Decision: 16.06.2020

Jagseer Dass

.....Petitioner

Vs.

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

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

Mr. Bhupinder Beniwal, A.A.G., Punjab.

AMOL RATTAN SINGH, J. (ORAL)

All cases listed today have been taken up for hearing by way of video conferencing because of the situation existing due to the COVID-19 pandemic.

This petition has been filed under the provisions of Section 439 of the Cr.P.C. for the grant of 'regular bail' to the petitioner, in case FIR no. 13 dated 21.01.2020, registered at Police Station Bhikhi, District Mansa, for the alleged commission of offences punishable under Sections 22 of the NDPS Act, 1985, (Section 29 of the Act of 1985 was added later on).

Learned counsel for the petitioner submits that the petitioner was issued a licence to store and sell drug except Schedule 'S' drugs and till the year 2018, Tramadol Hydrochloride was not a drug that fell within the purview of the NDPS Act, 1985, and since the petitioners' licence was valid till the year 2021, the drugs already purchased by him were still lying with him and consequently, he is

not guilty of any offence punishable under the NDPS Act.

Upon query to learned counsel as to why he could not produce the bills of purchase of the said drug, especially with the drug having been manufactured in December 2019 (obviously after it had been brought under the provisions of the Act of 1985), he submits that as a matter of fact the bills are lying with him in his shop.

He seeks time to take instructions whether the petitioner is willing to be taken in custody to the shop to produce those bills.

He has also submitted that notices as regards non-production of bills which were recovered from him on the same date, as do not fall within the purview of the NDPS Act, 1985, but only under the purview of Drugs and Cosmetics Act, 1940, were also issued to him and therefore simply because he could not produce the bills at the relevant time, that does not make possession of the drugs in his licenced chemist shop an offence.

Having considered that argument, at least for the purpose of this petition though obviously not for the purpose of trial which would be conducted by the trial court wholly on the basis of evidence led before it, I do not agree with learned counsel for the petitioner as regards non-production of bills/invoices of purchase of drug at a time when the drug in question (Tramadol) had already been declared to be contraband within the purview of the Act of 1985.

If of course, the petitioner had a licence for the said drug and simply could not produce the bill on time, that would have been a different matter, but with the drug having been manufactured in the year 2019, by which time it had been declared to be a drug that fell within the purview of that Act and the petitioner has not been able to produce the bills so far, I see no reason to entertain

this petition, at this stage at least.

Dismissed.

June 16, 2020
nitin

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes
Yes