

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-24830 of 2020 (O&M)

Date of decision:28.08.2020

Ishu Kumar

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Amaninder Preet Singh, Advocate and
Mr. Jonny Goyal, Advocate
for the petitioner.

SUVIR SEHGAL J.

The hearing of the case has been taken up in virtual Court which is being held as a consequence of outbreak of corona virus (Covid-19) pandemic.

Petitioner, namely, Ishu Kumar, son of Satish Kumar has filed the present petition under Section 438 Cr.P.C for grant of anticipatory bail in FIR No.95 dated 25.02.2020 under Sections 22 and 25, 29 of Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as “the NDPS Act”), registered at Police Station City Barnala, District Barnala.

As per the version of the prosecution, secret information was received on 25.02.2020 that one Mohan Lal, who is habitual of selling intoxicating tablets in the area of Barnala City by bringing it from other States, was active. FIR was registered and Mohan Lal was apprehended from whom a polythene bag containing 2000 intoxicating tablets were

recovered. Upon further investigation, one Naresh Mittal was arrested on 28.02.2020 from whose possession 4900 tablets, cash amount of Rs.5.00 lakhs and one Innova vehicle was recovered. During his interrogation, he disclosed that he used to sell the intoxicants to the petitioner who was running a Chemist Shop and he used to make payments on weekly basis. Besides the petitioner, accused Naresh Mittal named Rupesh Kumar, Prem Kumar and Hardeep Kumar. It also came out in his statement that from the profits earned by him, he had purchased a plot near Sarvotam Academy and one shop in Barnala and one Innova Car. On the basis of his disclosure statement, the petitioner was nominated as an accused.

Counsel for the petitioner has argued that the petitioner is a licensed Chemist who has a license (Annexure P-2) with its validity from 26.08.2016 to 25.08.2020 and he is the proprietor of M/s Ashu Medicos Barnala. According to the counsel, the petitioner has been framed in the case. He argues that on an earlier occasion, two FIRs, bearing No.38 dated 02.04.2017 under Sections 22, 29 of the NDPS Act was registered at Police Station Tapa, District Barnala and another FIR bearing No.302 dated 21.09.2017 under Sections 22, 29 of the NDPS Act was lodged at Police Station City Barnala. After his acquittal in both these cases, vide judgments dated 11.09.2019 and 27.01.2020 (Annexures P-3 and P-4) respectively, the local police officials started harassing him and making demands for illegal gratification. However, when the petitioner did not oblige them, they registered 03 FIRs against him including the present FIR. It is the argument

of the counsel that the petitioner has been nominated as an accused on the basis of the disclosure statement of Naresh Mittal, which was recorded in police custody and the same is inadmissible in evidence. He further submitted that a perusal of 03 FIRs shows that all three have been registered in a similar manner and the petitioner has been nominated as an accused in them on the basis of the disclosure statement.

I have considered the submissions of the learned counsel.

Perusal of the paper book shows that the recovery of more than 40 lakhs intoxicating tablets has been effected from different accused, the details of which are as under:-

Name of accused	Recovery
Mohan Lal (arrested on 25.02.2020)	80 strips of Alprsafe and 120 strips of Etolam each strip containing 10 tablets total 2000 intoxicating tablets.
Naresh Mittal (arrested on 28.02.2020)	4900 tablets, 80 strips of clovidol, 1000 loose tablets, cash amount of Rs.5.00 lakhs and one Innova car.
Tayab Quareshi (arrested on 05.03.2020)	4 lakhs intoxicating tablets of clovidol, 40000 tablets of Tarmonil, 4,80,000 tablets of Alko-1, 2,10,000 tablets of Tradol 10, 23,40,000 tablets of Prozolam, 28,800 tablets of Ultimacet, 1,75,800 capsules of Provorin Spas, 1,29,040 capsules of Simplex C Plus, 36,800 injections of Penazon, 25,000 loose tablets and one Activa.
Rupesh Kumar (arrested on 11.03.2020)	184 strips of Clovidol, 100 SR each strip containing 10 tablets, 160 strips of Prozolam 0.5 each strip containing 10 tablets total 3440 intoxicating tablets.

Raids by the police show that astronomically huge recovery, which has been described as the largest in the country, has taken place. This shows that a deep rooted network must have possibly been operating covertly since a long time and the petitioner, who is a Chemist, is one of the end-sellers of the contraband tablets.

The argument of the counsel for the petitioner that the

petitioner has been deliberately framed after his acquittal, vide judgments (Annexures P-3 and P-4) is improbable. It is more likely that after his acquittal, the petitioner became brazen and started openly indulging in the sale of intoxicating tablets. To test this argument, a specific query was put to the counsel as to whether he had submitted any complaint against the local police officials, to which answer of the counsel was in the 'negative'.

The petitioner has not only been named by Naresh Mittal, who apparently is the king-pin of the network, but also by Tejinder Singh, an independent person, who is a liquor trader and he stated that the petitioner had approached him with an offer to sell drugs at his liquor vend. Counsel for the petitioner could not give any reason to dis-credit the statement of this person.

Besides the present FIR, the two other FIRs, have been registered against the petitioner the details of which are as under:-

- a) FIR No.238, dated 22.04.2020 under Section 22 (Section 29 was added later on) of the NDPS Act registered at Police Station City Barnala (Annexure P-5); and
- b) FIR No.250, dated 02.05.2020 under Section 22 (Section 29 was added later on) of the NDPS Act, registered at Police Station City Barnala.

Keeping in view the totality of the facts and circumstances noticed above, the gravity of the offence, the antecedents of the petitioner and particularly the fact that a deep rooted network of drug dealers is

probably operating from a small district like Barnala in the heart of the State of Punjab, this Court is of the view that the petitioner is not entitled to the concession of anticipatory bail.

The petition is, accordingly, dismissed.

It is clarified that any observation made hereinabove shall not be construed as an expression of opinion on the merits of the case.

(SUVIR SEHGAL)
JUDGE

August 28, 2020
savita

Whether Speaking/Reasoned	Yes
Whether Reportable	Yes