

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-46517-2019 (O&M)
Date of decision: 27.01.2020

Varinder Kumar

... Petitioner

Vs.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. S.S. Sidhu, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for grant of regular bail in FIR No.44 dated 04.04.2019 under Section 22 of NDPS Act, registered at Police Station Kotwali, District Bathinda.

Learned counsel for the petitioner submits that as per allegations in the FIR, the police party, while on patrol duty, stopped a car, driven by Rahul Aggarwal and the person sitting on the co-driver seat was one Surinder Kumar. On suspicion that both of them are carrying some intoxicant material, notice was given to them to be searched before a Gazetted Officer or a Magistrate. After recording their non-consent memo, a Gazetted Officer/DSP, Bathinda was called at the spot and in his presence, search was conducted and from a plastic bag, total 53000 tablets of Tramadol HCL SR were recovered along with Rs.1.90 lac. It is further submitted that the petitioner was not named in the FIR

and on 22.07.2019, the police recorded statement of one Hakam Singh, who stated that he is doing the job of conductor in a bus and on 23.03.2019, he proceeded from Chandigarh to Sirsa via Mansa and when the bus reached at Zirakpur bus stand, two persons came to him and said that they want to send boxes of medicines to Mansa and somebody will come and take the delivery. Thereafter, three boxes of medicines were put in the bus. On his inquiry, the person, who gave the medicines, told his name as Varinder Kumar (petitioner).

Learned counsel for the petitioner further submits that the petitioner was already present in the police station, as he was summoned by the Investigating Officer repeatedly and on protest shown by him, the statement of aforesaid witness was recorded to implicate the petitioner in the present FIR. It is further submitted that the petitioner is not involved in any other case and in fact, he is a Pharmacist, having its business at Zirakpur. It is also submitted that the petitioner was implicated in this case after a period of 03 months without there being any evidence except the statement of aforesaid Hakam Singh.

Reply by way of affidavit of Senior Superintendent of Police, Bathinda is on record and as per this reply, during investigation of the case, co-accused Rahul Aggarwal was arrested at the spot and he revealed that tablets were supplied to him by his maternal uncle Sandeep Kumar through Harmesh Singh and later, on the basis of such disclosure statement, both of them were nominated as accused on 05.04.2019 and after recording the disclosure statement, he took the police party to a Medical Hall. In the disclosure statements of Rahul Aggarwal, Sandeep Kumar and Surinder Kumar dated 07.04.2019 and 08.04.2019, it came that they have purchased the tablets from one Gurnaib Singh @ Gugni on payment of Rs.70,000/- and he was also

implicated as an accused.

Learned State counsel, on instructions from ASI Gurmukh Singh, has, however, submitted that there are call details between the petitioner and aforesaid Gurnaib Singh to implicate him in the case.

After hearing learned counsel for the parties, I find merit in the present petition.

As per allegations in the FIR, recovery was effected from two persons Rahul Aggarwal and Surinder Kumar and upon their disclosure, three other persons were nominated. The petitioner was later on nominated, after a long lapse of time, on the statement of one Hakam Singh, who stated himself to be a conductor that the petitioner has given three boxes of medicines for handing over the same to some person at Mansa. The legality of the statement of this person Hakam Singh is yet to be tested during the course of trial.

Without commenting anything further on merits of the case, considering the fact that the petitioner is in custody since 26.07.2019 and challan stands presented, this petition is allowed and the petitioner is directed to be released on regular bail subject to furnishing his bail/surety bonds to the satisfaction of the trial Court/Illaq Magistrate/Duty Magistrate, concerned.

Petition is disposed of.

[ARVIND SINGH SANGWAN]
JUDGE

27.01.2020
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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No