

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CRM-M No.3235 of 2021 (O&M)
Date of Decision.05.04.2021
(Heard through VC)

Chinderpal

...Petitioner

Vs

State of Punjab

...Respondent

CORAM:HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. GBS Dhillon, Advocate
for the petitioner.
Ms. Rashmi Attri, AAG, Punjab.

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JAISHREE THAKUR J. (ORAL)

CRM No.10344 of 2021

Application is allowed as prayed for.

Annexures P-5 to P-8 are taken on record.

CRM-M No.3235 of 2021

This is a petition that has been filed for grant of regular bail to the petitioner in case FIR No.151 dated 14.10.2020 under Section 22 (c), 61, 85 of the NDPS Act registered at Police Station Bahav Wala, District Fazilka.

Learned counsel for the petitioner *inter alia* would contend that there was non-compliance of Section 50 of the NDPS Act. In fact, the raiding party was obligated to make aware the petitioner of his legal right to get his search done either before a Magistrate or through a Gazette officer whereas in the instant case the offer made is to get the search done before a Magistrate or any other gazetted officer of the police. It is also argued that the offer made is not in conformation with the law as settled in **Arif Khan @ Agha Khan Vs. The State of Uttrakhand (2018) 18 SCC 380**. It is also argued that in the instant case the petitioner herein was a proprietor of Jai

Bharat Medical store but was not in effective control of the said shop, as the same was run by Karan Dhawan, who had also executed an affidavit to the effect that he would be responsible for the conduct of the business of the firm under Drugs and Cosmetics Act, 1940 and the Drugs and Cosmetics Rule, 1945.

Learned counsel appearing on behalf of the respondent-State opposes grant of bail to the petitioner on the ground that offer had been made in consonance with the provisions of Section 50 of the NDPS Act since there was an offer made to have the search conducted in front of a Magistrate. It is also argued that a huge recovery has been made of 1150 tablets containing salt tramadol and the salt in the said tablets is beyond the non-commercial limit.

I have heard learned counsel for the parties and without going into merits of the case, deem it appropriate to allow regular bail to the petitioner on execution of adequate personal/ surety bond of Rs.4 lakhs to the satisfaction of concerned trial Court/Duty Magistrate. However, any observation made herein shall not be construed to be an expression on merits of the case. It is made clear that in case the petitioner herein is found indulging in any similar activity under the NDPS Act during the period he is on bail, the respondent-State would be at liberty to move an appropriate application for cancellation of bail granted to the petitioner.

The instant petition is allowed in above terms.

(JAISHREE THAKUR)
JUDGE

April 05, 2021

Pankaj*

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No