

215

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

(Through Video-conferencing)

**CRM-M No.14269 of 2021
Date of Decision: 14.10.2021**

AJAY

.....Petitioner

Vs

STATE OF HARYANA

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Rakesh Nehra, Sr. Advocate with
Mr. Atul Ravish, Advocate
for the petitioner.

Mr. Aanat Kataria, DAG Haryana.

RAJ MOHAN SINGH, J.(Oral)

Petitioner seeks grant of regular bail under Section 439 Cr.P.C in case bearing FIR No.398 dated 03.10.2019, registered under Section 22 of NDPS Act, at Police Station Urban Estate, Rohtak, District Rohtak.

CRM-M-17305 of 2020 was got dismissed as withdrawn on 01.12.2020. FIR was registered on the basis of secret information in respect of involvement of the petitioner. The information was treated to be worth reliance. Petitioner was apprehended with 240 vials of wincirex, 100 ML each without

permit or licence. The recovery was effected on 03.10.2019 i.e. at the time of registration of FIR in question. On 10.09.2021, following order was passed:-

“Learned State counsel seeks time to verify whether the alleged recovery of 240 bottles of wincirex was with reference to any batch number and other characteristics. Secondly, he seeks time to verify whether recovery memos prepared in the context of recoveries of drugs and car carry signatures of the accused or not.

*Learned State counsel also seeks time to verify whether the representative samples were sent for analysis as per parameters in view of Notification No.1/88 issued by the Narcotics Control Bureau and the view expressed in **Union of India vs. Bal Mukund and others, 2009(2) R.C.R. (Criminal) 574 and CRA-S No.1449-SB of 2008 titled 'Satpal vs. State of Haryana'** decided on 06.08.2012.*

Adjourned to 24.09.2021.”

In compliance of the aforesaid order a reply by way of affidavit of Sajjan Kumar, H.P.S, Deputy Superintendent of Police, Rohtak on behalf of respondent/State of Haryana has been filed wherein, it has been mentioned that 240 bottles of wincirex were having Batch No.WCRX-1063 and 2 bottles out of the total bulk were sent for chemical analysis. It has also been mentioned that the recovery memo of car as well as the contraband do not find signatures of the accused but the same

have been signed by official witnesses. The FIR was registered on 03.10.2019 but the samples were sent on 18.10.2019.

As per FSL report, the samples were sent to FSL vide Memo No.146 dated 18.10.2019 in the present FIR.

Learned counsel for the petitioner submits that since the signatures of the accused have not been obtained on the recovery memo of the contraband as well as of the car, therefore, the same would attract the ratio laid down in **Sandeep Kumar Vs. State of Punjab 2019(4) RCC 741.**

Learned counsel further submits that as per notification No.1/88 issued by Narcotics Control Bureau and also in view of ratio of **Union of India Vs. Bal Mukund and others, 2009 R.C.R (Criminal) 574** and **CRA-S No.1449-SB of 2008 titled 'Satpal Vs. State of Haryana** decided on 06.08.2012, the samples were required to be sent within 72 hours. There is inordinate delay of about 15 days in sending the samples for analysis.

Learned State counsel however, submits that there shall be no material prejudice to the petitioner as the contraband was having batch numbers. The recovery is of commercial quantity.

Having heard learned counsel for the parties, I find that the complicity of the petitioner on the aforesaid parameters

would remain debatable.

At this stage without meaning on the merits of the case and also in view of the situation arising out due to COVID-19 pandemic regular bail of the petitioner can be considered particularly when he is custody since 03.10.2019. As per instructions of learned State counsel petitioner is not involved in any other case including NDPS case. After filing of challan and framing of charges, no prosecution witness has been examined so far. Taking into consideration the totality of facts and circumstances of the case, I deem it appropriate to enlarge the petitioner on regular bail.

In view of above, petition is allowed. Petitioner is ordered to be released on bail, subject to his furnishing adequate bail bonds/surety bonds to the satisfaction of the trial Court/concerned Duty Magistrate.

Nothing expressed hereinabove would be construed to be an expression of any opinion on merits of the case.

14.10.2021

Amandeep

Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No