

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

CRM-M-16469-2021

Date of decision:02.09.2021

Raj Kumar alias Raju

...Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. D.S. Virk, Advocate for the petitioner.

Mr. Pardeep Prakash Chahar, DAG, Haryana.

HARNARESH SINGH GILL, J. (ORAL)

Case is taken up for hearing through video conferencing.

Through this 3rd petition, the petitioner seeks regular bail in case bearing FIR No.6 dated 12.01.2020 registered under Section 22(b) of the Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station Kalanwali, District Sirsa.

Learned counsel for the petitioner submits that the petitioner is the sole proprietor of the chemist shop and is having a proper and valid licence issued by the competent authority (Annexure P-2) and as per 'The Drugs and Cosmetics Rules, 1945' (Annexure P-3), the petitioner, on the strength of the said licence, is competent to keep the medicine in question i.e., Tramadol, for sale in his shop and the same had been purchased from G.S. Enterprises on 03.01.2020. Even as per the RTI information, the said licence was valid for five years from the date of its issuance and the licence

of the firm was valid till 24.04.2024. The petitioner has been in custody for

the last 1 year and 7 months.

Learned State counsel, while opposing the prayer for grant of regular bail, does not dispute the custody period of the petitioner. However, he submits that the recovery effected from the petitioner falls under the commercial quantity and the licence is not valid one for the drugs falling under Schedule 'X'. The challan has already been presented. It is further submitted that the petitioner was convicted and sentenced to imprisonment till the rising of the Court and to pay a fine of Rs.500/- on 14.08.2015 in another case bearing FIR No.177 dated 30.06.2014 registered under Section 22(b) of the NDPS Act. The prosecution witnesses are yet to be examined.

I have heard the learned counsel for the parties.

In the present case, the validity of the licence is not in dispute because as per the RTI information, the same was valid till 24.04.2024. The sole proprietor of M/s G.S. Enterprises surrendered the said licence on 25.03.2020, but the FIR is of 12.01.2020. Even otherwise, the validity of the licence is to be decided by the trial Court. The petitioner was convicted and sentenced to undergo imprisonment till the rising of the Court and to pay a fine of Rs.500/- on 14.08.2015 in FIR No.177 dated 30.06.2014 and except that, there is no other case pending or registered against him. The petitioner has been in custody for the last 1 year 7 months. The prosecution witnesses are yet to be examined. The trial will take time to conclude, especially due to Covid-19. Thus, no useful purpose would be served by keeping the petitioner behind the bars.

In view of the above, without commenting anything on the merits, lest it should prejudice the case of either side, the petition is

allowed and the petitioner is ordered to be released on regular bail to the satisfaction of the learned trial Court/Duty Magistrate.

02.09.2021

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(HARNARESH SINGH GILL)
JUDGE

Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No