

CRM-M-21288-2021

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

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Date of decision:05.07.2021

K.P.Francis

...Petitioner

Versus

State of U.T. Chandigarh

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Raj Kamal, Advocate,
for the petitioner.

Mr. A.M.Punchhi, Public Prosecutor with
Mr. Anupam Bansal, Advocate,
for the respondent-U.T.Chandigarh.

HARNARESH SINGH GILL, J. (ORAL)

Case is taken up for hearing through video conferencing.

Through this petition, the petitioner seeks regular bail in case bearing FIR No.56 dated 18.04.2021, registered at Police Station Central Sector 17, Chandigarh, under Sections 420 and 120-B IPC, Section 7 of the Essential Commodities Act, 1955 and Section 27 of the Drugs and Cosmetics Act, 1940.

Learned counsel for the petitioner contends that the petitioner is a partner in 'Associated Pharmaceutical Company Distributors'. For the expansion of his business, he came to Chandigarh on being invited by co-accused, Susheel Kumar, who is acting as a middle man in the business of pharmaceuticals. The petitioner has falsely been implicated in the present case by portraying as a seller of Remdesivir injections, whereas he had

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come to secure the supply of the same as he had been assured by the seller company, namely M/s Health Biotech Pvt. Ltd. that they are in the process of getting permission to sell the same in the domestic market and needed some buyers for its consumption across India. In fact, no purchase had been made by the petitioner from the alleged seller, namely M/s Health Biotech Pvt. Ltd. It is further contended that the petitioner, if at all, was a prospective purchaser and not a seller and he had intended to purchase the Remdesivir injections only after co-accused, Susheel Kumar and his company had obtained requisite permission from the concerned authority. On being invited by co-accused, Susheel Kumar, the petitioner went to Taj Hotel, Chandigarh, for necessary discussion on the availability and other modalities of the injections. The petitioner was told that the supply of the Remdesivir injections would only be made after obtaining the permission/license from the concerned authority.

Learned counsel for the petitioner further contends that there is no evidence against the petitioner with regard to the offences allegedly committed by him. No recovery was effected from him. He had neither purchased nor distributed even a single dose of the Remdesivir injection. No inducement was attributed to him. He has no concern with the alleged recovery of 3000 Remdesivir injections, effected at Baddi.

Learned counsel further contends that in such circumstances, no case is made out against the petitioner. Learned counsel further submits that no offence under Section 7 of the Essential Commodities Act, is made out against him. Moreover, the police was not authorized to launch prosecution under Section 27 of the Drugs and Cosmetics Act, 1940.

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Lastly, it is submitted that the investigation is complete; that nothing is to be recovered from the petitioner; that he has been in custody since 22.04.2021, and that no useful purpose would be served by keeping him behind the bars.

Learned P.P. for U.T. Chandigarh, while opposing the submissions made by the learned counsel for the petitioner submits that the petitioner alongwith co-accused was holding a meeting in connection with the sale of Remdesivir injections without having any licence or permit. The petitioner and the co-accused had every act of connivance and rather, the alleged sudden meeting of the petitioner with the other co-accused in Taj Hotel, could not be without any prior meeting of minds. It is also argued that the Health Biotech was not authorized to sell the injection Remdesivir in the domestic market, but its manufacturing, stocking and further intended sale by the accused, including the petitioner, clearly points out to an act of criminal conspiracy. As a matter of fact, the entire conduct of the proceedings clearly points out that the petitioner alongwith other co-accused had been involved in the crime by preparing the mode and modus well in advance with the ulterior goal in mind. However, challan was presented on 15.06.2021.

I have heard the learned counsel for the parties.

Challan stands presented against the petitioner. Nothing is to be recovered from him. He has been in custody since 22.04.2021. Trial of the case would take time to conclude. Therefore, no useful purpose would be served by keeping the petitioner behind the bars.

In view of the above, without commenting anything on the

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merits, lest it should prejudice the case of either side, the present petition is allowed and the petitioner is ordered to be released on bail on his furnishing bail and surety bonds to the satisfaction of the learned trial Court/Duty Magistrate.

Nothing expressed above shall be construed as an expression of opinion on the merits of the case.

05.07.2021

parveen kumar

(HARNARESH SINGH GILL)
JUDGE

Whether reasoned/speaking?

Yes/No

Whether reportable?

Yes/No