

CRM-M-21790-2021

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

CRM-M-21790-2021

Date of decision:05.07.2021

Gaurav Chawla

...Petitioner

Versus

State of U.T. Chandigarh

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Vinod Ghai, Sr. Advocate with Ms. Kirti Ahuja and
Ms. Kanika Ahuja and Mr. Edward Augustine George,
Advocates, 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 Senior Counsel for the petitioner contends that the petitioner is the Director of Health Biotech Limited, Baddi, having its registered office at Chandigarh. Learned Senior Counsel further contends that neither the petitioner was named in the FIR, nor there is any allegation against him of his connivance with the alleged persons arrested by the

CRM-M-21790-2021

police at Taj Hotel. There is no evidence against the petitioner with regard to the offences allegedly committed by the petitioner. Mere recovery of a request letter addressed to the Government, seeking permission for the sale of Remdesivir injections in the domestic market, will not make out an offence of cheating under Section 420 IPC. No inducement was attributed to the petitioner.

Learned Senior Counsel further contends that pursuant to the directions issued by the Government of India, the Health Biotech Limited had stopped the export of Remdesivir injections and the injections already manufactured from the specific raw material supplied with the permission, had been lying with the company. The Health Biotech Limited had sought the permission from the State Drug Controller, Himachal Pradesh, vide letter dated 13.04.2021, for the sale of said injections and Favipiravir Tablets in the domestic market. The purchase orders dated 06.04.2021 and 08.04.2021 and GST invoice dated 16.04.2021 and the return bill (Annexure P-13) would clearly show that the petitioner's company had sent 11000 vials to a merchant exporter Hindaz Corporation in Mumbai, but as the Government of India banned the export of vials on 11.04.2021, the said consignment could not be sent to the destination. It is also argued that 3000 vials of Remdesivir injections allegedly recovered from the premises of the Company, were legally manufactured by the petitioner's Company as it had a valid licence but the same were lying with it due to the ban on export placed by the Government of India.

Learned Senior Counsel further contends that in such circumstances, no case is made out against the petitioner. He further

CRM-M-21790-2021

submits that no offence under Section 7 of the Essential Commodities Act is made out. Moreover, the police was not authorized to launch prosecution under Section 27 of the Drugs and Cosmetics Act, 1940. 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 recovery of request letter dated 13.04.2021 (Annexure P-8) clearly establishes that 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 injections 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. No Company or Firm dealing in the medicines, can prepare the stocks in advance for the domestic market sale, unless it obtains the sanction from the appropriate Government/Authority. 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

CRM-M-21790-2021

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 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