

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

CRM-M No.28201 of 2020 (O&M)

Date of Decision.14.01.2021

Reserved on 06.01.2021

(Heard through VC)

Paramjit Kaur

...Petitioner

Vs

Union of India

...Respondent

CORAM:HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. K.S. Jetley, Advocate
for the petitioner.

Mr. Sanjay Vashisth, Advocate
Senior Panel Counsel for NCB.

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JAISHREE THAKUR J.

1. The instant petition has been filed for grant of regular bail to the petitioner in case bearing Crime No.33/2020 dated 12.06.2020 under Sections 8, 21, 22, 29 & 60 of NDPS Act at Police Station NCB, Chandigarh.

2. The facts in brief as alleged are that two consignments were booked by petitioner, who is proprietor of Brioshine Pharma, a licensed chemist at SCO No.38, Cabin-2, 1st Floor, Sector 11, Panchkula in the name of Balaji Traders, Shop No.158-A, Near DAV Girls School, Bazar No.1, Ferozepur Cantt-152001 through DTDC Courier Agency. The first consignment was booked on 10.06.2020 and the second consignment was booked on 12.06.2020.

3. Based on secret information that two consignments contained contraband, the Narcotics Bureau, Headquarters, Chandigarh arrived at the

Regional Office of DTDC Courier Agency at Panchkula and called Paramjit Kaur, consignor of the parcels, who confirmed that she had booked the parcels herself. The parcel was opened and 20,000 tablets of Tramadol Hydrochloride 100 mg (Trade Name Clovidol-100 SR) were recovered. Simultaneously on 12.06.2020, the Narcotics Bureau Amritsar arrived at DTDC Office at Court Road, Ferozepur and arrested one Bhavnish s/o Prem Kumar Dutta, the person to whom the consignment had been sent on 10.06.2020 and recovered 37,000 tablets of Tramadol Hydrochloride 100 mg (Trade Name Clovidol-100 SR).

4. The petitioner herein was arrested on 12.06.2020 and thereafter remanded to the judicial custody after she was produced before the Special Court at Panchkula.. Thereafter, the petitioner applied for grant of regular bail, which was rejected and the matter has come up before this Court by way of instant Crl. Misc. Petition.

5. Mr. K.S. Jetley, learned counsel appearing for the petitioner herein contended that the petitioner has been falsely implicated in the said matter as no documentary evidence produced is made available incriminating the petitioner as envisaged under Section 167 Cr.P.C. It was further argued that the confession/extra judicial confession made by an accused, when hit by any law, would not be admissible in evidence. It was also argued that the petitioner herein is suffering from HIV and therefore, it would be in the interest of justice to grant concession of bail to the petitioner.

6. Per contra, Mr. Sanjay Vashisth, learned counsel appearing on behalf of the Narcotics Bureau submitted that there has been a recovery of almost 57,000 tablets of Tramadol Hydrochloride 100 mg (Trade Name

Clovidol-100 SR), which is of commercial quantity. Paramjit Kaur has admitted to sending the consignment to Bhavnish Kumar under her own signatures. It is also argued that there are screen shots of *Whatsapp* messages available with the NCB, which would connect the petitioner with the said contraband as there is message available showing transfer of an amount by the co-accused Rakesh Kumar Singla into the account of Harjinder Singh, husband of Paramjit Kaur. Therefore, once having admitted to be involved in the said transaction, she would not be entitled to the concession of regular bail.

7. I have heard learned counsel for the parties and with their assistance have gone through the paper book.

8. The facts are not in dispute regarding seizure of two consignments sent by Paramjit Kaur to Bhavnish Kumar at Ferozpuer. Admittedly, both the consignments contained alleged contraband of Tramadol Hydrochloride 100 mg (Trade Name Clovidol-100 SR), which is of commercial quantity. The parcel that was sent on 10.06.2020 contained 37,000 tablets whereas the parcel that was seized on 12.06.2020 at Panchkula contained 20,000 tablets of aforesaid contraband.

9. It is admitted fact that the consignments were booked by the petitioner in the name of her own firm and she also identified the copy of challan of her firm Brioshine Pharma. The consignment at Panchkula was opened in the presence of the petitioner and independent witnesses as well as DTDC officials, out of which 20000 tablets of Tramadol Hydrochloride (Clovidol-100 SR) were recovered. Similarly, 37000 tablets of above said contraband was recovered from the consignment sent by the petitioner to Balaji Traders at Ferozepur. The quantity of contraband is of commercial

quantity.

10. Section 37 of the NDPS Act is stringent, as it specifies that the offences are cognizable and non-bailable, while clearly enumerating that no person accused of an offence punishable under Section 19 or 24 or 27 and also for offences involving commercial quantity, shall be released on bail or on his own bond. The only proviso, which allows bail to be granted to an accused, is, when the Court is reasonably satisfied that the accused is not guilty of such an offence and he will not commit further offence, while on bail. The scheme of Section 37 of the NDPS Act reveals that the exercise of power of granting bail is not only subject to the limitations contained under Section 439 of the Cr.P.C. but is also subject to the limitation placed by Section 37 of the NDPS Act.

11. Therefore, in view of the fact that recovery of 20,000 tablets, which were going as a consignment to Forezepur was effected in the presence of the petitioner, independent witnesses as well as the officials of the DTDC courier agency, this Court is not inclined to allow bail to the petitioner. Consequently, the instant petition stands dismissed.

(JAISHREE THAKUR)
JUDGE

January 14, 2021

Pankaj*

Whether speaking/reasoned Yes/No

Whether reportable Yes/No