

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Criminal Misc.-M No.39707 of 2020
Date of Decision: September 27, 2021

Amrit Pal Singh

...Petitioner\

Versus

State of U.T.Chandigarh

...Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Preetinder S. Ahluwalia, Advocate,
for the petitioner.

Mr. A.M.Punchhi, Public Prosecutor &
Mr. Anupam Bansal, Addl.P.P.
For U.T.Chandigarh.

MANOJ BAJAJ, J. (Oral)

Petitioner has filed this petition under Section 439 Cr.P.C. for grant of regular bail, pending trial in case FIR No.174 dated 27.08.2020, under Section 22 N.D.P.S.Act, 1985, registered at Police Station, South Sector 34, Chandigarh, who is in custody since his arrest on 27.08.2020.

The contents of the FIR, as noticed by the Judge, Special Court in his order dated 11.11.2020, are as under:-

“As per the prosecution case, the FIR was registered with the allegations that on 27.08.2020 the police party headed by SI Ashok was on patrolling for the prevention of crime and recovered from the conscious possession of the accused 20 strips (patte) containing 5 strips in each and each strip contained 10 tablets. On each strip Clevidol 100sr Containing Tramadol Hydrochloride IP 100mg was printed, and 50 plastic bottles on which Chlorpheniramine Maleate and Codine

Phosphate Syrup Syscodine 100 ml containing Codine phosphate 10 ml was written. On checking the tablets it was found that it did not contain batch number and on checking the plastic bottles it was found that the batch number on them had been torn. No license/permit/slip of doctor for keeping those tablets and small bottles of syrup in his possession was produced. SI Ashok Kumar sealed the recovered contraband at the spot as per rules. In this way total 1000 tablets of tramadol and 50 plastic bottles of Chlorpheniramine Maleate and Codine Phosphate Syrup Syscodine have been recovered from the petitioner.....”

Learned counsel for the petitioner has argued that the petitioner holds a valid licence (Annexure P-3) and is running a chemist shop, namely, M/s Singh Medicos. According to him, as per prosecution, the alleged contraband (1000 tablets of Tramadol and 50 plastic bottles of Chlorpheniramine Maleate and Codine Phosphate Syrup Syscodine) was recovered near his shop situated at Sector 45, Chandigarh, therefore, the said possession of medicines by him cannot be construed as unauthorised. He has also drawn the attention of the court to the invoices (Annexure P-4) to contend that the alleged recovered articles were purchased by the petitioner through wholesaler, namely, Sakshi Enterprises, therefore, the implication of petitioner in the above case is apparently false. According to him, the investigation of the case is complete and even the charges have been framed on 02.02.2021, but as the trial is yet to commence, the petitioner be released on bail.

On the other hand, learned Public Prosecutor appearing on behalf of U.T.Chandigarh, assisted by ASI Pardeep Kumar, has opposed the prayer on the ground that the recovered contraband falls within the ambit of commercial quantity. He submits that the petitioner is involved in another

case bearing FIR No.165 dated 21.09.2020, under Section 22 N.D.P.S.Act, Police Station, Khamano (Annexure P-9), therefore, he does not deserve the concession of bail. However, the learned Public Prosecutor has not disputed the licence in favour of the petitioner, but has contended that the contraband could not have been carried by him freely as he was authorised to sell from his shop. It is also not disputed by him that the place of recovery is in the vicinity of his shop, i.e., at a distance of approximately 1 km.

At this stage, learned counsel for the petitioner has pointed out that as the wife of the petitioner had given a representation against the police officials for his false implication, so to retaliate, the petitioner has been again falsely implicated in FIR No.165 dated 21.09.2020 (Annexure P-6) and in the said case, no recovery was effected from the petitioner, who has been indicted as an accused on the basis of the disclosure statement suffered by co-accused.

After hearing the learned counsel for the parties, considering the custodial period of the petitioner as well as the background of this case, this court is of the opinion that though the charges have been framed, but the trial is yet to start as no prosecution witness has been examined so far out of total fifteen witnesses. Thus, the conclusion of trial is likely to consume considerable time. Apart from it, the material witnesses are police officials and at present, there does not seem to be any possibility of their being won over, therefore, the further custody of the petitioner may not be necessary for any useful purpose, who is presently confined in judicial custody after his arrest on 27.08.2020.

Resultantly, without meaning any expression of opinion on the merits of the case, the petition is allowed and it is ordered that the petitioner

be released on regular bail subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court/CJM/Duty Magistrate, Chandigarh.

September 27, 2021
ramesh

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No