

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

**CRM-M-1158-2022 (O&M)
Date of decision: 18.04.2022**

Pawan Kumar @ Pawan Kapoor

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Sandeep Kumar Passi, Advocate for the petitioner.

Mr. Ajay Pal Singh Gill, DAG Punjab.

HARNARESH SINGH GILL, J. (ORAL)

CRM-4384-2022

Prayer in the application is for placing on record copy of the CD as Annexure P-11.

Prayer is allowed. Annexure P-11 (copy of CD) is taken on record.

Main case:

Through this second petition, the petitioner seeks anticipatory bail in case bearing FIR No.321 dated 22.12.2020, registered at Police Station Sadar Tarn Taran, District Tarn Taran, under Sections 22(c), 25 (added later on) and 29 NDPS Act, 1985.

Learned counsel for the petitioner submits that a totally false case was registered against the petitioner and Rajiv Kumar @ Rocky; that the petitioner was arrested on 22.12.2020 and as per the prosecution story, the alleged recovery of 30000 tablets of Etizolam 0.5mg, was effected from him,

which as a matter of fact, does not fall under the ambit of the NDPS Act; that the petitioner was granted regular bail by the learned Judge, Special Court, Tarn Taran, vide order dated 02.02.2021; that thereafter, Section 25 of the NDPS was added vide DDR No. 15 dated 03.06.2021, which was so mentioned in the challan presented on 17.06.2021; that the petitioner is having a valid licence and is running a Chemist Shop, as per the provisions of the Drugs and Cosmetics Act, 1940 and the Rules made thereunder.

Learned counsel for the petitioner further argues that as per CD (Annexure P-11), the alleged recovery was effected on 21.12.2020.

Learned State counsel while opposing the bail submits that the petitioner and co-accused Rajiv Kumar @ Rocky were travelling in the car of the petitioner and during search, recovery of 23000 (Celcidal 100 SR) tablets of Tramadol, which is a commercial quantity, was effected from co-accused Rajiv Kumar @ Rocky and 30000 tablets of Etizolam 0.5mg, from the petitioner. It is further submitted that the petitioner cannot escape the liability as the material available on record per-se indicates his knowledge about the contrabands in the said car.

I have heard the learned counsel for the parties.

At the time of recovery of contraband, the petitioner and co-accused were travelling in the car belonging to the petitioner. No doubt, earlier the petitioner was granted regular bail by the Special Court, but with the addition of Section 25 of the NDPS Act, he had filed an application for grant of anticipatory bail, which was dismissed by the Special Court on 20.07.2021. The factum of huge quantity of contraband in possession of the petitioner and co-accused, cannot be pleaded not to be within the knowledge

of the petitioner, especially when the car the petitioner and the co-accused had been travelling in, belongs to the petitioner. Thus, the active involvement of the petitioner in the crime is apparently there and thus, he is required for the custodial interrogation.

In view of the above, the present petition is dismissed.

(HARNARESH SINGH GILL)
JUDGE

18.04.2022
Mangal Singh

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