

CRM-M-27697-2021 (O&M);
CRM-M-14447-2021 (O&M) &
CRM-M-14570-2021 (O&M)

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

(I) CRM-M-27697-2021 (O&M)

Harish Kumar @ Dimple ...Petitioner

Versus

State of Punjab ...Respondent

(II) CRM-M-14447-2021 (O&M)

Ravish Kumar ...Petitioner

Versus

State of Punjab ...Respondent

(III) CRM-M-14570-2021 (O&M)

Adish Jain ...Petitioner

Versus

State of Punjab ...Respondent

Date of Decision: 21.02.2022

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present: Mr. Preetinder Singh Alhuwalia, Advocate, for the petitioner
in CRM-M-27697-2021.

Mr. Sandeep Kumar Passi, Advocate, for the petitioners
in CRM-M-14447-2021 & CRM-M-14570-2021.

Mr. Harbir Sandhu, AAG, Punjab,
assisted by ASI Jagdeep Singh.

GURVINDER SINGH GILL, J. (Oral)

1. This order shall dispose of aforesaid three petitions filed on behalf of

Harish Kumar @ Dimple, Ravish Kumar and Adish Jain respectively.

While petitioner-Harish Kumar @ Dimple seeks grant of regular bail, petitioners-Ravish Kumar and Adish Jain seek grant of anticipatory bail in respect of a case registered against them vide FIR No.42 dated 27.02.2021 at Police Station City-2, Khanna, District Ludhiana, under Sections 22/25/61/85 of the NDPS Act.

2. As per the case of prosecution, on 27.02.2021 during the course of checking, the police noticed a white coloured Verna car bearing registration No.PH-23-H-3444 coming from the side of Mandi Gobindgarh. When the driver of the said car was signaled to stop, he tried to escape from the barricades laid by the police. However, the police was able to intercept the said car. Upon enquiry, the driver of the said car disclosed his name as Babloo Ram. It was noticed that some boxes containing intoxicant tablets were lying on the front passenger seat, which were numbering 21 and in respect of which said Babloo Ram could not produce any license or permit. Upon checking, the said boxes were found to contain 10500 tablets of 'Tramadol'.
3. It is further the case of the prosecution that during the course of interrogation, said Babloo Ram disclosed that he was in possession of some more intoxicant tablets, which he had stored in his house. He further disclosed that the said tablets had been procured by him from Harish Kumar. Pursuant to said disclosure statement, Babloo Ram led the police to his house from where the following contraband was recovered:

“(a) 67 boxes containing FORIDOL capsules (total 20,100 capsules), having 'TRAMADOL HYDROCHLORIDE' as an ingredient.

- (b) 3 boxes containing NEXDOL-P tablets (total 600 tablets), having 'ACETAMINOPHEN' and 'TRAMADOL HYDROCHLORIDE U.S.P.' as ingredients.
 - (c) 17 boxes containing ETOLAM 0.5 MG tablets (total 13,600 tablets), having 'ETIZOLAM' as an ingredient.
 - (d) 30 boxes containing PROZOLAM- 0.5 MG tablets (total 24,000 tablets), having 'ALPRAZOLAM' as an ingredient.
 - (e) 10 boxes containing DIGIDOL tablets (total 2000 tablets), having 'TRAMADOL HCI' & 'PARACITAMOL' as ingredients."
4. It is further the case of prosecution that Harish Kumar @ Dimple was arrested on the same day itself i.e. 27.02.2021 and thereafter his shop, which was under the name & style of M/s Growth Enterprises, Grain Market, Ludhiana was searched, but no intoxicant was recovered from his shop. It is further the case of the prosecution that during the course of interrogation, Harish Kumar @ Dimple disclosed that he used to purchase the intoxicant tablets from M/s Eldeco Johnson Bio-Science, Rurki, Haridwar (Uttarakhand) and that he had been introduced to the owner of the said firm by common friends, namely Happy & Rinku.
5. It is further the case of the prosecution that on 01.03.2021, Harish Kumar @ Dimple suffered a disclosure statement to the effect that he had purchased the intoxicant tablets from Adish Kumar Jain and Ravish Kumar Jain, which had been delivered to him through driver Rajinder Singh. Pursuant to said statement, said two i.e. Adish Kumar Jain and Ravish Kumar Jain were nominated as accused.
6. It is further the case of the prosecution that on 03.03.2021 upon search of the premises of M/s Eldeco Johnson Bio-Science, Rurki, Haridwar (Uttarakhand), the following recovery was effected:

“10 boxes of 1310 bottles Rankurf Symp. having salt Chlorpheniramine Meleuto I.P. 4 mg and Codeine Phosphate I.P. 10 mg bearing Batch No.S-970120 D.M.-01.2020, D.E.-12.2021.”

7. It is further the case of the prosecution that on 12.03.2021, shop/godown i.e. Godown No.10, Ground Floor, Old Ghah Mandi, Ambala City of Adish Kumar Jain was searched and 3 cardboard boxes were recovered, which were found to contain 166 boxes of ‘Tramadol Hydrochloride’ and ‘Paracetamol’ tablets. In other words, a total of 33250 tablets of ‘Tramadol’ and 18000 tablets of ‘Alprazolam’ were recovered.
8. During investigation, it was found by the investigating agency that the said premises at Ambala were owned by Tejinder Singh, who produced the rent agreement revealing that it is Adish Kumar, who had taken the said premises on rent in partnership with one Pallav Jain. Consequently, said Pallav Jain was also nominated as an accused.
9. Upon conclusion of investigation, a report under Section 173 Cr.P.C. was presented against Babloo Ram and Harish Kumar, while the investigation qua other accused was still pending.
10. Mr. Preetinder Singh Ahluwalia, learned counsel representing petitioner-Harish Kumar @ Dimple has submitted that he is a licensed Chemist and that upon search of his premises, no intoxicant tablet was recovered, which could attract offence under the NDPS Act. Learned counsel has further submitted that he has, however, been nominated as an accused on the basis of disclosure statement of Babloo Ram, wherein he stated that he has been procuring the contraband from the petitioner. Learned counsel has further submitted that such like disclosure statement made by a co-accused without there being any corroborative evidence would not carry any evidentiary

value particularly when nothing objectionable was recovered upon search of the premises of the petitioner, who is otherwise a licensed Chemist running his business at Ludhiana. Lastly, it has been submitted that, in any case, since the petitioner has been behind bars for the last about 1 year and has a clean record, he deserves the concession of bail.

11. Mr. Sandeep Kumar Passi, learned counsel representing Adish Jain, submitted that although the investigating agency claims that some quantity of 'Tramadol' and 'Alprazolam' was recovered from the premises i.e. M/s Maruti Remedies at Ambala, but in fact the said firm is owned by one Pallav Jain, co-accused and the petitioner has nothing to do with the said firm. It has been submitted that the only evidence against him is the alleged disclosure statement made by co-accused Harish Kumar, which does not stand substantiated in any manner. Learned counsel has further submitted that the petitioner, otherwise, himself is a licensed Chemist and is running business under the name & style of M/s Oajas Healthcare at Ambala City and that no recovery whatsoever is alleged to have been effected from the petitioner or from the said premises and that recovery, if any, effected from the premises of M/s Maruti Remedies is attributable to co-accused Pallav Jain only.

12. Similarly, while pressing upon the petition for grant of anticipatory bail on behalf of Ravish Kumar, Mr. Sandeep Kumar Passi submitted that he has also been nominated as an accused on the basis of a disclosure statement made by Harish Kumar and that the said disclosure statement cannot be said to be corroborated in any manner inasmuch as when a search was conducted at the business premises of the petitioner i.e. M/s Eldeco Johnson Bio-Science, Rurki, Haridwar (Uttarakhand), 10 boxes containing

1310 bottles of Rankurf Syrup were recovered, which otherwise he could have legitimately possessed being a licensed Chemist. Learned counsel has further submitted that it is not the case of the investigating agency that the said Syrup was ever recovered from any of the other accused. Learned counsel has further submitted that although the investigating agency claims that Ravish Kumar had admitted having purchased contraband from one M/s Orison Pharma International, Kala Amb, District Sirmour (Himachal Pradesh) despite the fact the license of said M/s Orison Pharma International had already been suspended by the Himachal Pradesh Government, but apart from the fact that there is no credible evidence to show that any such purchase had been made by Harish Kumar from M/s Orison Pharma International, even the license of M/s Orison Pharma International had been suspended much after the recoveries had been made in the instant case, which would otherwise make purchase, if any, made from M/s Orison Pharma International duly legitimate.

13. On the other hand, learned State counsel while opposing all the petitions has submitted that since a huge quantity of contraband was recovered from Babloo Ram for which he could not furnish any justifiable explanation and had rather made a disclosure statement that he had purchased the same from Harish Kumar and upon arrest of said Harish Kumar, he named Ravish Kumar and Adish Jain, who all are into the business of medicines, the same clearly shows that it is a case where they had been misusing the said medicines by passing on the same to unscrupulous elements for undue gains. Learned State counsel has further submitted that since huge quantity of 'Tramadol' and 'Alprazolam' was recovered from the premises of Adish Jain at Ambala and even upon search of premises of Ravish Kumar at

Haridwar, 1310 bottles of Rankurf Syrup were recovered, no case for grant of bail either to Harish Kumar or to the other accused is made out.

14. I have considered rival submissions addressed before this Court.
15. While it is not much in dispute that Babloo Ram was found in possession of huge quantity of contraband, but as far as the present petitioners are concerned, they all have been named pursuant to disclosure statement initially made by Babloo Ram and later on made by Harish Kumar. As far as petitioner-Harish Kumar is concerned, no contraband was ever recovered from him upon search of his premises. In any case, he has already been behind bars for a substantial period of about 1 year and otherwise has a clean record. The trial is yet to commence inasmuch as even the charges have not been framed so far and as many as 22 PWs have been cited. In these circumstances, further detention of the petitioner-Harish Kumar will not serve any useful purpose as the conclusion of trial will take some time. The petition filed on behalf of Harish Kumar, as such, is accepted and the petitioner is ordered to be released on regular bail on his furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate concerned.
16. As far as petitioners-Ravish Kumar and Adish Jain are concerned, even they have been nominated on the basis of a disclosure statement alleged to have been made by Harish Kumar. It is not in dispute that both Ravish Kumar and Adish Jain are authorized and licensed Chemists. Though the investigating agency claims to have effected recovery of 'Tramadol' and 'Alprazolam' from the premises of M/s Maruti Remedies at Ambala, which is found to be owned by one Pallav Jain, but it will be debatable as to whether petitioner-Adish Jain can be attributed any kind of conscious

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possession in respect of the said recovery as he is not found to be a partner in M/s Maruti Remedies.

17. As regards petitioner-Ravish Kumar, although 1310 bottles of Rankurf Syrup were stated to have been recovered from the premises of M/s Eldeco Johnson Bio-Science, Rurki, Haridwar (Uttarakhand), but he being a licensed Chemist could legitimately store the same in his shop. There is nothing on record to suggest that the said Syrup had ever found its way in Punjab and Haryana or had been recovered from any co-accused in the present case. In these circumstances, it will be debatable as to whether the disclosure statement made by Harish Kumar against these two petitioners would be admissible or can be relied upon, when there is no other corroborative evidence to substantiate the allegations against both the petitioners.
18. In view of the aforestated discussion, both the petitioners, namely Ravish Kumar and Adish Jain, in the event of arrest, are ordered to be released on interim bail subject to their furnishing personal bonds and surety bonds to the satisfaction of Arresting/Investigating Officer. However, the petitioners shall join investigation as and when called upon to do so and cooperate with the Arresting/Investigating Officer and shall abide by the conditions as provided under Section 438(2) Cr.P.C.
19. Resultantly, all the three petitions are accepted.
20. A photocopy of this order be placed on all the connected files.

21.02.2022

Vimal

(GURVINDER SINGH GILL)
JUDGE

Whether speaking/reasoned: **Yes/No**
Whether reportable: **Yes/No**