

106 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-26198-2022
DECIDED ON:10th JUNE, 2022

MAHAVIR PARSAD

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Ranbir Singh Sekhon, Advocate
for the petitioner.

Mr. Randhir Singh Thind, DAG, Punjab.

SANDEEP MOUDGIL, J

The instant petition under Section 438 Cr.P.C. has been filed for grant of anticipatory bail in case bearing FIR No. 7, dated 10.01.2022, under Sections 22(C)/61/85 of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'NDPS Act') (Section 25/29 of NDPS Act added later on), registered at Police Station Khuian Sarwar, District Fazilka.

The brief facts giving rise to the registration of this FIR are that on 10.01.2019 at about 2.45 P.M., while the police party headed by ASI Harminder Singh was present at Inter State Checking Barrier, secret information was received that from the side of Rajasthan, some of the private bus operators visit Punjab on the pretext of refueling their buses and bus bearing registration No. RJ-07PB-8111 being driven by Moola Ram accompanied by Conductor Ramesh Kumar is coming towards Punjab today

and that the Intoxicating tablets are loaded in that bus for being delivered in Punjab. Considering the said information to be reliable, the driver of the bus as also the conductor were apprehended alongwith bus in question and recovery of 14300 Intoxicating tablets of salt Tramadol Hydrochloride and Etizolam was effected from the possession. During investigation the above-said accused persons were found innocent, as such, cancellation report was filed in court with a request to discharge them. But vide order dated 11.05.2022 while declining the request of the prosecution to discharge the said accused, took cognizance of the matter and had concluded that Mahavir Parsad being the owner of the bus in question had also connived with the main accused in transportation of huge quantity of the medicines without any permit or licence in the State of Punjab.

Counsel for the petitioner submits that the petitioner is an innocent person and has been falsely implicated in the present case. No recovery has been effected from the petitioner. He further submits that Investigating Agency found that M/s Shri Shyam Drugs Nokha sent the intoxicant tablets in question to M/s SSG Medicose Mukhrjee Nagar, Sri Ganganagar through the bus in question. As per the investigation the petitioners were not smuggled the contraband in question rather they are carrier and Shri Shyam Drugs Noka sent the tablets through valid bill dated 09.01.20222 in favour of M/s SSG Medicose. Moreover, the co-accused Moola Ram and Ramesh Kumar, who were apprehended from the spot, were later on found innocent.

Learned State counsel opposes the prayer and submits that the co-accused Moola Ram and Ramesh Kumar were apprehended while being

in conscious possession of 14300 Intoxicating tablets containing commercial quantity of salt Tramadol Hydrochloride so as to attract the rigor of Section 37 of the NDPS Act. He further submits that vide order dated 11.05.2022 the trial Court observed that the present petitioner has connived with those accused persons in transportation of such contraband to the State of Punjab without any permit or license.

Heard learned counsel for the parties and perused the record with their assistance.

The petitioner is the owner of the vehicle from which 14300 Intoxicating tablets of salt Tramadol Hydrochloride were recovered. Section 37 of the NDPS Act, provides stringent provisions for grant of bail in cases where recovery is of commercial quantity.

The provisions of [Section 37](#) of the NDPS Act read as follows:

“[37. Offences to be cognizable and non-bailable.–

(1) Notwithstanding anything contained in [the Code](#) of Criminal Procedure, 1973 (2 of 1974) –

(a) every offence punishable under this Act shall be cognizable;

(b) no person accused of an offence punishable for [offences under [section 19](#) or [section 24](#) or [section 27A](#) and also for offences involving commercial quantity] shall be released on bail or on his own bond unless –

(i) the Public Prosecutor has been given an opportunity to oppose the application for such release, and

(ii) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.”

Considering the seriousness of allegations and the fact that the custodial interrogation of the petitioner is necessary to unearth all the ramifications involved in the present case, no case is made out for grant of

anticipatory bail. Further this Court is of the considered view that in the absence of custodial interrogation, the investigation of this case is likely to be stalled.

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

10th JUNE, 2022
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(SANDEEP MOUDGIL)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>