

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

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**CRM-M-36477-2021 (O&M)
Date of decision: 04.05.2022**

SUNNY DHAWAN @ NITIN DHAWAN

....Petitioner(s)

Versus

STATE OF PUNJAB

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

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

Mr. Karanbir Singh, AAG Punjab.

VINOD S. BHARDWAJ. J. (ORAL)

The instant petition has been filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No.64 dated 14.05.2021 under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 registered at Police Station Sadar Ferozepur, District Ferozepur.

Learned counsel for the petitioner *inter alia* contends that the petitioner is a licensed chemist and places reliance upon his licence issued under the Drugs and Cosmetics Act, 1940 (Annexure P-2). He submits that petitioner was arrested on 14.05.2021 on the allegations of being in possession of 6000 intoxicant tablets with the brand name ETOM-0.5 containing Etizolam salt. It is contended that Etizolam was not a part of notified salt under the NDPS Act and that notification in this regard was issued only on 23.03.2021 vide which the entry at Sr. No.110-ZN had been added in the Schedule of the Narcotic Drugs and Psychotropic Substances Act, 1985. He further submits that the Police did not

investigate into the valid procurement of the said drug sourced by the petitioner and that a specific order in this regard was passed by the Judge, Special Court, Ferozepur vide order dated 26.08.2021. The investigating officer was called upon to verify the recovered drugs from the manufacturing unit/facility and make a record thereof and to ensure as to whether the recovered drugs had been disbursed against proper documentation/invoices.

Vide order dated 23.03.2022, the Senior Superintendent of Police, Ferozepur was directed to furnish an affidavit as to whether the directions so contained in the order passed by the Judge, Special Court, Ferozepur had been complied with by the Investigating Officer or not prior to filing of the final report under Section 173 CrPC.

In compliance to the order, affidavit of Charanjit Singh, IPS, Senior Superintendent of Police, District Ferozepur has been filed today in the Court. Copy thereof has been furnished to the counsel for the petitioner. A perusal of the same shows that the Senior Superintendent of Police has admitted that the said order had not been complied with by the Investigating Officer prior to filing of the final report and even the final report stands filed by the Investigating Agency on 10.11.2021. No charge has been framed against the petitioner so far. Learned counsel contends that the petitioner has been in custody since 14.05.2021 and has already undergone an actual custody of 11 months and 21 days and that he has no criminal antecedents.

Mr. Karanbir Singh, AAG Punjab does not dispute the abovesaid factual aspects and submits that 6000 tablets containing Etizolam salt had been recovered. He has however not been able to give any valid explanation as to why verification of the invoices/vouchers with regard to the disbursement/procurement of the medicines was not done. The aforesaid aspect gains special significance

since the possession of Etizolam salt was notified as an offence under the NDPS Act only in the month of March 2021 and the present case was registered in the month of May 2021.

I have heard learned counsel for the parties and have perused the material on record.

Taking into consideration the stage of trial, failure on the part of the prosecution agency to collect relevant material as would show compliance of the said order and also the fact that charges have not been framed and the petitioner is a licensed chemist and does not have any criminal antecedents, I deem it appropriate to enlarge the petitioner on bail.

Accordingly, the present petition is allowed and the petitioner is admitted to regular bail subject to his furnishing bail bonds/surety bonds to the satisfaction of Trial Court/Duty Magistrate, concerned.

It is made clear that the petitioner shall not extend any threat and shall not influence any prosecution witnesses in any manner directly or indirectly.

The observation made hereinabove shall not be construed as an expression on the merits of the case and the Trial Court shall decide the case on the basis of available material.

(VINOD S. BHARDWAJ)
JUDGE

May 04, 2022

S.Sharma(syr)

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