

221.

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

CRM-M-37650-2021 (O&M)

Date of Decision: 18.02.2022

HARJIT SINGH

.... Petitioner

Versus

STATE OF PUNJAB

.... Respondent

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Vipul Jindal, Advocate, for the petitioner.

Mr. A.S.Gill, Senior DAG, Punjab.

JAISHREE THAKUR.J (Oral)

CRM-42300-2021

Application is allowed, as prayed for.

Annexures P-22 to P-28 (colly) are taken on record.

CRM-M-37650-2021

The instant petition has been filed seeking quashing of the orders dated 16.07.2021/13.08.2021 [Annexure P-7 (colly)] passed by the Special Court, Amritsar whereby warrants of arrest has been ordered to be issued against the petitioner herein.

Learned counsel for the petitioner would contend that the petitioner is the owner/proprietor of Sidhu Medical Care Centre at Adda Tahli Saheb, Post Office Babowal, Tehsil Baba Bakala, District Amritsar, and has a licence issued by way of Form 21-C under the Drugs & Cosmetics Act, 1940, which is valid till 29.07.2022. It is contended that he has a licence

to stock various drugs and a reading of the same would reflect that there is no ban of stocking/selling the drug/salt of alprazolam. It is contended that he was apprehended with the allegation of carrying 1200 loose tablets of alprazolam. It is argued that a reading of the FIR would show that there is no compliance of Section 50 of the NDPS Act. The petitioner herein applied for grant of bail while in custody as the FSL report was still awaited. It is submitted that while on interim bail, FSL report was received and as the petitioner did not surrender, his arrest warrants were issued, which orders are the subject matter of present petition.

Learned counsel for the petitioner would submit that he had applied for anticipatory bail by way of CRM-M-31851-2021, however, the same was rejected as not maintainable, deeming him to be in constructive custody. Learned counsel, while assailing the arrest warrants, would argue on merits as well, by contending that a petition for quashing has been filed challenging the very action of the respondent-State registering the FIR considering the fact that he is a licensed chemist. He would argue that there is a catena of judgements passed in ***CRM-M-31554-2009*** titled as ***Sunil Kumar Versus State of Punjab and others***, decided on 12.10.2017; ***CRM-M-16726-2015*** titled as ***Rajesh Kumar Versus State of Punjab***, decided on 22.08.2014 and ***CRM-M-11963-2010*** titled as ***Lakhwinder Singh Versus State of Punjab***, decided on 19.02.2014 where FIRs under the NDPS Act registered against the licensed chemists have been quashed and the matter is now sub judice as one of the matters is now pending before the Supreme Court where proceedings under the FIR are stayed in SLP (Criminal) No.662-2017. He would further argue that challan has been presented before

the trial Court in the said matter.

Learned counsel appearing on behalf of the respondent-State submits that the petitioner herein has to return to custody considering the fact that interim bail was allowed to him pending FSL report which is now available showing the salt found in possession of the petitioner as alprazolam and that too being of commercial quantity.

I have heard learned counsel for the petitioner as well as the learned State counsel and perused the orders as passed by the coordinate Benches as referred by the counsel for the petitioner.

Keeping in view the contentions raised that the petitioner herein is a licensed chemist and there is no bar to him stocking tablets of alprazolam and also keeping in view that the FIRs under the NDPS Act against licensed chemists are being quashed, this Court deems it appropriate to allow the petitioner herein concession of regular bail pending trial. The petitioner is accordingly directed to surrender before the trial Court on or before 03.03.2022, and on doing so, he would be admitted to regular bail to the satisfaction of the trial Court. The impugned orders dated 16.07.2021/ 13.08.2021 are set aside so far as issuance of warrants of arrest against the petitioner are concerned.

The petition stands disposed of accordingly.

(JAISHREE THAKUR)
JUDGE

18.02.2022

sanjeev

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No