

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

CRM-M-41753-2022

Date of decision: 29.10.2022

Mohammad Saleem Akhtar

.....Petitioner

versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Ashok Giri, Advocate
for the petitioner.

Mr. Adhiraj Singh, AAG, Punjab.

NAMIT KUMAR, J. (ORAL)

This petition has been filed under Section 438 Cr.P.C. seeking pre-arrest bail in a case bearing FIR No.91 dated 28.06.2022 under Sections 22/29 of NDPS Act, 1985, registered at Police Station Sadar, Jalandhar, District Police Commissionerate, Jalandhar.

The case set up by the prosecution is that complainant Inspector Ajaib Singh has got registered the case with the allegations that he alongwith other police officials were present in connection with checking at Bus Stand, Jandiala, when secret information was received that petitioner, namely, Mohammad Saleem Akhtar and his sister Parveen Akhtar are indulging in the sale of intoxicant tablets and today again they are going on their motorcycle bearing no.PB-37-J-2926 of Hero HF Deluxe. On the basis of this reliable information, raid was conducted at the house of the petitioner, when a clean shaved person alongwith one lady were ready to go on motorcycle bearing no.PB-37-J-2926 alongwith one black colour

briefcase. On seeing the police party, the person ran away from the narrow streets by throwing his motorcycle, whereas lady sitting on the motorcycle alongwith briefcase has been apprehended. On search of briefcase total 2400 tablets make Alprazolam and 4500 tablets make Tramadol were recovered.

On issuance of notice of motion, reply by way of an affidavit of Babandeep Singh, PPS, Assistant Commissioner of Police (Cantt.), Commissionerate Jalandhar, has been filed on behalf of the respondent-State, wherein it has been stated that FIR No.91 dated 28.06.2022, under Sections 22/61/85 of NDPS Act, registered at Police Station Sadar Jalandhar, District Police Commissionerate Jalandhar, registered on the statement of Inspector Ajaib Singh against petitioner, namely, Mohd. Saleem Akhtar and Ms. Parveen Akhtar (sister of the petitioner).

The relevant portion from the reply is as under:-

“4. That it is respectfully submitted that when the police party raided the house of the petitioner, the petitioner alongwith his sister/accused namely Parveen Akhtar were sitting on motorcycle bearing No. PB-37-J-2926 mark Hero HF Delux and were about to leave. That on seeing the police party, the petitioner fled from the spot, leaving his motorcycle and his sister/accused namely Parveen Akhtar was apprehended on the spot alongwith a suitcase.

That accused Parveen Akhtar was informed by the police party that there is a suspicion that she is in possession of some contraband and search is required to be conducted but she has the right to get her search conducted in the presence of a Gazetted Officer. That accused Parveen Akhtar stated that she wants to get her

search conducted in the presence of a Gazetted Officer. Therefore, the non-consent memo was prepared and the signature of accused was taken on the same. Thereafter, Sh. Ravinder Singh, PPS, the then ACP Sub Division- 5, Commissionerate Jalandhar. was called on the spot. That accused Parveen Akhtar was informed that she has the right to get her search conducted in the presence of some other Gazetted Officer or some Magistrate. That accused Parveen Akhtar stated that she wants to get her search conducted in the presence of Sh. Ravinder Singh, PPS, the then ACP Sub-Division- 5, Commissionerate Jalandhar.

5. That it is respectfully submitted that thereafter, the consent memo was prepared and signature of accused Parveen Akhtar was taken on the same and the search of suitcase, which was in her possession, was searched, as per the provision of Section 50 NDPS Act.

6. That it is respectfully submitted that during the search of the suitcase, 2 boxes, each containing 10/10 stripes of 60 intoxicating tablets each, mark Alprazolam Tablets IP, 0.5 mg and 20 loose stripes, each stripe containing 60 intoxicating tablets of Alprazolam Tablets IP, 0.5 mg have been recovered. Other than this, 9 boxes containing 10/10 stripes of 50 intoxicating tablets each, mark Tramadol HCI Tablets i.e. a total of 2400 Alprazolam tablets have also been recovered from the aforesaid suitcase which was in the possession of accused Parveen Akhtar. Therefore, a total of 2400 Alprazolam Tablets IP, 0.5 mg and a total of 4500 Tramadol HCI Tablets have been recovered from accused Parveen Akhtar and thereby, she was arrested on the spot.

7. That it is respectfully submitted that during the investigation, the FSL Report No. 1979/2022/Toxi./FSL/Pb. Dated 24.08.2022,

regarding the recovered intoxicants has been received, whereby, it has been mentioned that:

“....Identification & Tests:

Parcel No.1

Tramadol

Hydrochloride: Found present, average 98.80mg/tablet in the tablets contained in parcel No.1

Parcel No.2

Alprazolam: Found present, average 0.47mg/tablet in the tablets contained in parcel No. 2

Parcel No.3

Alprazolam: Found present, average 0.48mg/tablet in the tablets contained in parcel No. 3.

REPORT

The tablets contained in parcel No. 1, 2, and 3 under reference have been analysed separately by chemical, TLC and Instrumental analysis. On the basis of analysis, the ingredients along with their quantities found present in these have been given at serial No. 8

(identification and tests) of this report....”

8. That it is respectfully submitted that during the further investigation, raid has been conducted to the house of the petitioner for the purpose of his arrest vide Zimni No. 2 dated 29.06.2022, but the petitioner could not be arrested.

9. That it is respectfully submitted that the petitioner has applied for the grant of Anticipatory Bail which has been dismissed vide order dated 25.08.2022 passed by Ld. Special Judge. Jalandhar. Therefore, the petitioner has approached this Hon'ble Court for the grant of Anticipatory Bail through the present petition.

10. **ROLE OF THE PETITIONER:**

That it is respectfully submitted that the petitioner is actively involved in the present case. That the petitioner, alongwith other co-accused namely Parveen Akhtar, used to sell intoxicants. Even on the date of occurrence, the petitioner and qua accused Parveen Akhtar were about to leave the house along with contraband in order to sell it. That when the police party reached their house, the petitioner fled from the scene but accused Parveen Akhtar was apprehended alongwith the contraband. That, other than this, two more FIRs have been registered against the petitioner as mentioned below. This shows that petitioner is habitual offender and his custodial interrogation in the present case is required for the efficacious disposal of the case. Thus, the petitioner does not deserve any concession from this Hon'ble Court."

Learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in the present case as he is a very staunch supporter of Congress party throughout and had even openly supported local candidate (MLA Pargat Singh from Jalandhar Cantt) by even organizing his road shows and worked very hard at ground level, which has not been liked by the APP candidate, namely, Mr. Surinder Sodhi, who was defeated.

Per contra, learned State counsel submits that huge recovery of contraband has been effected from the suitcase of the petitioner and his sister namely, Ms. Parveen Akhtar, containing 2400 tablets containing salt alprazolam and 4500 tablets containing salt Tramadol. He further submits that the report of FSL has already been received and average weight of

Tramadol tablet has been mentioned as 398 mg/tablet, whereas for Alprazolam tablet it has also been mentioned as 107 mg/tablet, as two types of tablets namely Alpramed and Alprasafe were allegedly recovered. The whole weight of Alprazolam comes to 304 gram, whereas of Tramadol, it comes to approximately 1791 grams. Both falls under commercial category. Moreover, accused/applicant ran away from the spot leaving contraband on the spot. As the alleged quantity falls in heavy commercial category, therefore, accused/applicant does not deserve any concession of anticipatory bail in view of Section 37 of the NDPS Act and law laid down in 'The State of Haryana Vs. Samarth Kumar, 2022 (3) RCR (Criminal) 991', therefore, his custodial interrogation is required. He further submits that apart from the present case, petitioner is involved in other two FIRs, the details of which are as under:-

1. FIR No.43 dated 13.03.2018 under Sections 22/61/85 of NDPS Act registered at Police Station Sadar Jalandhar.
2. FIR No.325 dated 02.11.2013 under Sections 22/61/85 of NDPS Act, registered at Police Station Sadar Jalandhar.

I have heard learned counsel for the parties and perused the record and without going into the merits of the case and keeping in view of the gravity of offence and serious allegations levelled against the petitioner and quantity being commercial and the petitioner being habitual offender and particularly, when he is involved in two other NDPS cases, is not entitled for grant of pre-arrest bail. Consequently, the present petition stands dismissed.

29.10.2022

ps-I

Whether speaking/reasoned
Whether reportable

(NAMIT KUMAR)

JUDGE

: Yes/No

: Yes/No