

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

208

**CRM-M-48487-2021 (O&M)
Date of decision: 02.11.2022**

OM PARKASH

....Petitioner

Versus

STATE OF PUNJAB

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Sh. Sita Ram, father of the petitioner in person.

SI Kuldeep Singh, Police Station Phillaur District Jalandhar.

AMAN CHAUDHARY. J.

Bar is abstaining from work today.

The present petition has been filed under Section 439 Cr.P.C. for the grant of regular bail to the petitioner in respect of FIR No.184 dated 13.07.2021, under Sections 22(c) and 29 of the NDPS Act, registered at Police Station Phillaur, District Jalandhar.

Briefly put, the case of the prosecution is that on 09.06.2021, Drug Inspector Rupinder Kaur along with SI Ajit Singh and others had checked Jassi Medical Hall of the petitioner. Various drugs were taken in possession by Drug Inspector. On 10.06.2021, she produced such drugs before CJM, Jalandhar, who ordered the Drug Inspector to keep drugs with her. Thereafter, on 16.06.2021, Drug Inspector asked the owner of Jassi Medical Hall to produce licence regarding seized drugs. On 10.07.2021, a letter was sent by police to Drug Inspector, to provide details of seized drugs, whereupon she informed that 900 tablets of Tramadol salt and 97 loose capsules of blue colour, were recovered by

her. Thereafter, Inspector Jarnail Singh, Incharge CIA Staff, Jalandhar (Rural) got FIR registered against the petitioner and started investigation. On 16.07.2021, the petitioner suffered disclosure statement that the recovered tablets/capsules were purchased by him from Daljit Singh, who is having Rohan Medical Store at Ludhiana. On the basis of his statement, Daljit Singh was nominated as accused. Daljit Singh suffered disclosure statement on 21.10.2021 to the effect that recovered tablets/capsule were purchased by him from Rakesh Kumar and thereafter supplied the same to the petitioner. Thereafter, Rakesh Kumar was nominated as accused and was arrested on 02.12.2021.

Sh. Sita Ram, father of the petitioner submits and is apparent from the record that the petitioner is in custody since 14.07.2021. It is further submitted that the petitioner is not involved in any other case under the NDPS Act or IPC.

In para No.7 of the petition, it is stated that that the petitioner is D-Pharmacy having requisite licence under the Drugs and Cosmetics Act, which is valid up to 28.11.2022. It is also mentioned that false case has been planted against the petitioner on the asking of some persons, who were disgruntled on account of father of the petitioner having been appointed as '*Gaddi Nashin*' of a holly place.

In para 9 and 10, it has been averred that the mandatory provisions of the NDPS Act as of the Drugs and Cosmetics Act have been violated and no witness had been joined at the time of alleged raid conducted at the premises of the petitioner. The father of the petitioner, present in Court, submits that though the ownership of the shop is in his name, however, the alleged recovery has been effected from the '*chobara*' to which there is a separate staircase from outside the shop and has a toilet, which is accessed by the local people, as such the alleged

recovery cannot be held to be from the conscious possession of the petitioner. He has produced copy of two orders, whereby co-accused Daljit Singh has been granted anticipatory bail by this Court vide order dated 29.09.2021 passed in CRM-M-40651-2021 and regular bail has been granted to co-accused Rakesh vide order dated 17.09.2022 passed in CRM-M-17080-2022 by this Court, after noticing he being in custody for almost 10 months and that though challan had been filed but charges had yet to be framed and in all there were a total of 14 prosecution witnesses to be examined.

SI Kuldip Singh, Police Station Phillaur has appeared in this case and has produced the status with regard to the FIR. On a query posed by the Court, he has affirmed the fact that the petitioner is not involved in any other case. He is also unable to controvert the fact that co-accused Daljit Singh was granted anticipatory bail as also Rakesh who was granted regular bail by this Court, after having been in custody for almost 10 months.

Heard.

Keeping in view the facts and circumstances, in particular that the petitioner has been in custody for last 15 months, having been arrested on 14.07.2021; one of the co-accused had been granted anticipatory bail, while other was granted regular bail; there is no involvement of the petitioner in any other case; charges are yet to be framed; there are a total of 14 prosecution witnesses to be examined; trial is likely to take considerable time, thus, his further detention behind bars would not serve any useful purpose, the present petition for grant of regular bail deserves to be allowed.

As a result, the present petition is allowed. The petitioner is ordered to be released on regular bail, subject to his furnishing bail/surety bonds to the

satisfaction of trial Court/Duty Magistrate concerned and subject to him not being required in any other case. The petitioner shall abide by the following conditions:-

1. The petitioner will not tamper with the evidence during the trial.
2. The petitioner will not pressurize/ intimidate the prosecution witnesses.
3. The petitioner will appear before the trial Court on each and every date fixed, unless is exempted by a specific order of Court.
4. The petitioner shall not commit an offence similar to the offence of which, he is an accused, or for commission of which he is suspected of.
5. The petitioner shall not directly or indirectly coerce, induce, threaten or promise to any person acquainted with the facts of the case so as to dissuade him/ her from disclosing such facts to the Court or to any police officer or tamper with the evidence in any manner.
6. The petitioner shall not in any manner misuse his liberty.
7. Any infraction shall entail in withdrawal of the benefit granted by this Court.
8. The petitioner shall furnish his address and mobile number to the Trial Court forthwith and shall not change the same till the conclusion of the trial and in case for any reason, the petitioner seeks to change any of the aforesaid, the same shall be done only with prior intimation to the learned Trial Court, stating the reason for the same.
9. The petitioner shall deposit his passport, if any, with the Trial Court forthwith and in case, he does not have the passport, he shall furnish a specific affidavit in this regard.

It is made clear that in case of non-adherence of any of the aforesaid conditions, the State shall be at liberty to seek cancellation of bail as granted to the petitioner by this order.

In view of the above, this Court makes it clarified that the observations made herein above are limited for the purpose of present proceedings and would not be construed as any opinion on the merits of the case and the trial would proceed independently of the aforesaid observations.

(AMAN CHAUDHARY)
JUDGE

November 02, 2022

S.Sharma(syr)

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