

104/2 cases

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of Decision: 04.03.2022

1. CRM-M-49006-2021(O&M)

Ashish Garg

.....Petitioner

Vs.

State of Haryana and Anr.

....Respondents

2. CRM-M-43824-2021

Sachin

.....Petitioner

Vs.

State of Haryana and Anr.

....Respondents

CORAM : HON'BLE MR.JUSTICE AMOL RATTAN SINGH

Present: Mr. Annirudh Sharma, Advocate and
Mr. Tej Bahadur, Advocate
for the petitioner in (CRM-M-49006-2021).

Mr. Rajinder Goyal, Advocate
for the petitioner in (CRM-M-43824-2021).

Ms. Puneeta Sethi, Senior Counsel
for the respondent-Union of India.

Mr. Neeraj Poswal, AAG, Haryana.

AMOL RATTAN SINGH, J. (Oral)

Case heard via video conferencing.

At the outset it is to be noticed that learned counsel for the respondent-Bureau has submitted that as a matter of fact in the reply filed by the said respondent, a preliminary objection has been taken that actually it is the Central Bureau of Narcotics and not the Narcotics Control Bureau, as has

registered the complaint against the petitioner, but in any case she submits that she would represent either of the two Bureaus.

That being so since the matter has been heard over a period of time, now the Registry is directed to amend the memo of parties by impleading the Union of India through the Intelligence Officer, Central Bureau of Narcotics (instead of the Narcotics Control Bureau, which are stated to be two different Bureaus).

A request has been made by Mr. Annirudh Sharma, Advocate appearing for the petitioner in CRM-M-49006-2021, for an adjournment on the ground that he is before another Court in physical hearing and therefore it is difficult for him to appear in video conferencing before this Bench.

The request is declined in view of the fact that when there are so many cases clubbed together, some counsel or the other will always have that issue and with Mr. Tej Bahadur, Advocate, in any case also being present, representing the same petitioner.

CRM-7753-2022 in CRM-M-49006-2021

Vide this application the respondent-Bureau seeks to place on record a copy of the objections filed by the Narcotics Control Bureau (Bangalore), in the case of ***“Intelligence Officer, Narcotics Control Bureau Vs. Pallulabid”***, as also the objections filed in ***“Pallulabid Vs. Union of India through Intelligence Officer, Narcotics Control Bureau, Bangalore”***.

Notice in the application.

Mr. Annirudh Sharma and Mr. Tej Bahadur, Advocate appears and accepts notice for the non-applicant-petitioner.

The application is allowed subject to just all exceptions, and the

copies of the objections filed in both the cases before the learned Special Judge, Bangalore and the High Court of Karnataka at Bangalore, are taken on record as Annexures R-1 and R-2 with the reply already filed on behalf of the respondent-Bureau.

CRM-M-49006-2021(O&M) with
CRM-M-43824-2021

With learned counsel for the petitioner Ashish Garg again referring to the judgment of the Supreme Court in “*Pallulabid Vs. Union of India through Intelligence Officer, Narcotics Control Bureau, Bangalore*”, Ms.Puneeta Sethi, Advocate for the respondent-Bureau, submits that no conversation was shown to be recorded before either the Karnataka High Court or the Supreme Court in that case, and therefore the Supreme Court had upheld the order of the Karnataka High Court, admitting such accused to bail who had been either arrested on the basis of statements made under Section 67 of the NDPS Act, or on account of call details records having been obtained qua phone calls exchanged between them and the prime accused from whom drugs were alleged to have been recovered.

On the other hand she refers to the conversation as has been reproduced in the affidavit dated 09.01.2022 filed on behalf of the respondent-Bureau, between the prime accused Sachin (petitioner in CRM-M-43824-2021), from whose premises contraband is stated to have been recovered, and petitioner-Ashish Garg, with her submitting that though the conversation does not refer to any particular drug, the reference is with regard to “5” and “300”, which is actually a reference to the drug Alprazolam, as was recovered from Sachin's premises, and therefore the reasoning of the Bureau that the transaction as was being referred to was actually for the sale

of contraband, is sound reasoning, the drug being of the potency of 500 mgs, contained in 300 boxes.

Learned counsel for the petitioner however refutes the above and submits that it was not in the context of Alprazolam but could have been in the context of another drug falling under the provisions of the Drugs and Cosmetics Act, 1940; in reply to which Ms. Puneeta Sethi has contended that neither of the said petitioners, i.e. Sachin and Ashish Garg, even being licensed chemists, though otherwise of course if it is not contraband listed in the NDPS, Act 1985, it would be only in violation of the Drugs and Cosmetics Act, 1940; however, with Alprazolam being a contraband drug in terms of the NDPS Act of 1985, and that having been recovered from Sachin, the conversation obviously relates to the same drug.

Having considered the matter, I agree with learned counsel for the respondent-Bureau and consequently as regards the petitions of Sachin, i.e. CRM-M-43824-2021 and Ashish Garg-CRM-M-49006-2021, I see no ground to entertain the petitions further, with the petitions consequently dismissed.

However, all observations made by this Court are only in the context of petitions filed under Section 439 of Cr.P.C. and as regards the merits of the evidence gathered by the investigating agency, that would naturally be considered by the trial court wholly on and independent appraisal thereof.

04.03.2022

Sunil Devi

(AMOL RATTAN SINGH)

JUDGE

Whether speaking/reasoned : YES
Whether Reportable : YES