

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-51267-2021

Date of Decision: 21.03.2022

Shubham

....Petitioner(s)

Versus

State of Punjab

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Sumit Sangwan, Advocate, for the petitioner.

Mr. Randhir Singh Thind, DAG, Punjab.

JASGURPREET SINGH PURI, J.(Oral)

The present petition been filed under Section 438 of the Code of Criminal Procedure for the grant of anticipatory bail to the petitioner in FIR No.0063 dated 04.06.2021, under Sections 22, 25 of NDPS Act, 1985 (Section 29 of NDPS Act added later on), registered at Police Station Barnala, District Barnala.

According to the present FIR when the police was doing patrolling and was checking suspicious persons, then a secret informer informed the police that one Amandeep Singh @ Tili son of Balvir Singh, resident of Bangla Patti Shekhan was habitual to sell the intoxicant tablets in village Pharwahi and Shekhan etc. by bringing the same from outside and he was coming on a motorcycle bearing registration No. PB-10DF-4626 from Barnala towards village Pharwahi in order to sell some intoxicant tables to the customers and that if some barricading is done on the way, then the aforesaid Amandeep Singh @ Tili can be caught on the spot. Thereafter, the

police party apprehended the aforesaid co-accused Amandeep Singh @ Tili and recovered 200 strips make Celludol-100 SR batch No.UFT.040 and a motorcycle bearing registration No. PB-10DF-4626. The recovered quantity was 711.82 grams of Tramadol which falls under the category of commercial quantity.

It has been submitted that the learned counsel for the petitioner that the name of the petitioner does not figure in the FIR and it was on the basis of a disclosure statement made at the fifth level and since disclosure statement of a co-accused is not admissible in evidence and the petitioner is not involved in any other case, he may be considered for the grant of anticipatory bail.

On the other hand, Mr. Randhir Singh Thind, learned Deputy Advocate General, Punjab has stated that an affidavit of Deputy Superintendent of Police, Sub Division, Barnala has been filed in the present case and learned Deputy Advocate General while referring to the aforesaid affidavit submitted that it is a case where co-accused Amandeep Singh @ Tili was arrested along 711.82 grams of Tramadol and he further disclosed during interrogation the names of three persons namely, Veebhadar @ Kalu, Lakhwinder Singh @ Bunty and Kamal Kumar who used to further sell these intoxicant tablets and thereafter the aforesaid three persons were also nominated as additional accused under Section 29 of the NDPS Act on 06.06.2021. Thereafter during the course of investigation the aforesaid accused Veebhadar Singh @ Kalu was arrested and the police got recovered 125 strips each containing 10 tablets of Celludol-100 SR batch No.UFT.040 from him. The total weight of the same came out to be 447.20 grams which is also a commercial quantity. He also disclosed that he started

this business of selling tablets alongwith his companions Lakhwinder Singh @ Buntty and Kamal Kumar who brought the said tablets from auto rickshaw driver at Delhi and out of which some tablets were given to Accused Amandeep Singh @ Tili who was apprehended on the spot. From the aforesaid persons, there was a total recovery of 3250 tablets. So far as the aforesaid co-accused Kamal Kumar is concerned, his anticipatory bail has been dismissed by this Court on 12.11.2021 in CRM-M-43884-2021. Thereafter, the aforesaid Veerbhadar Singh disclosed the name of other co-accused namely Parveen Kumar @ Golu who was also arrested on 28.07.2021 and from his possession 140 strips each containing 10 tablets of Tramadol TM-100 SR and 1000 loose tablets of white colour were also recovered. From the interrogation of co-accused Parveen Kumar, another co-accused namely Mohit Kumar was also nominated as an additional accused and on his interrogation, the name of Sandeep Kumar @ Pandu was nominated and from his also there was a recovery of 18 strips each containing 8 capsules of Proxywel Spas alongwith 72 loose capsules of the same make.

The learned Deputy Advocate General further submitted that when the aforesaid Sandeep Kumar @ Pandu was interrogated, then he disclosed the name of the present petitioner that he had brought the Tramadol tablets and Proxy Spas capsules from the present petitioner namely Shubham and in this way, the present petitioner was nominated as an additional accused under Section 29 of the NDPS Act on 09.08.2021 and thereafter the petitioner has been absconding. He further submitted that although the petitioner is not involved in any other case but the gravity and sequence of events in the present case would show that the source of the

such heavy quantity of intoxicant tablets needs to be ascertained and the investigation of the present case would show that a link has been established when an accused has been arrested and was interrogated and in this way in order to complete the chain and to know the actual sources from where the intoxicant tablets have come, the custodial interrogation of the petitioner is required. He further submitted that since the entire quantity falls in the category of commercial quantity, the prayer of the petitioner for grant of anticipatory bail would be barred by the provisions of Section 37 of the NDPS Act.

I have heard the learned counsel for the parties.

Although the name of the petitioner has been nominated at the fourth or fifth level but the sequence of events which have been provided in the present case that when the first accused namely Amandeep Singh @ Tili was arrested, he had disclosed the source from three persons and this is how the name of the petitioner has cropped up at fourth level. It is true that the disclosure statement of a co-accused is not admissible in evidence but sequence and chain of events in the present case would suggest that the basic source from where the Tramadol tablets have come needs to be ascertained and in the present case at the fourth or fifth level the source was being ascertained by the police by nominating the additional accused and after the present petitioner the further source needs to be ascertained. The drug menace and especially the Tramadol tablets are in use in large numbers in both the States Punjab and Haryana. Ultimately the source from where they emanate is required. Therefore, the argument raised by the learned State counsel carries weight that for the purpose of elicitation of truth, the custodial interrogation of the petitioner is required in order to know the

actual source of the intoxicant tablets. Apart from the same, the learned counsel for the petitioner has not been able to make out any ground for making a departure from the bar contained under Section 37 of the NDPS Act.

In view of the above, finding no merit in the present petition, the same is hereby dismissed.

However, anything observed hereinabove shall not be treated as an expression of opinion on merits of the case and is meant for the purpose of deciding the present petition only.

21.03.2022

rakesh

(JASGURPREET SINGH PURI)
JUDGE

Whether speaking	:	Yes/No
Whether reportable	:	Yes/No