

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

CRM-M No.56541 of 2022 (O&M)
DATE OF DECISION : 05.12.2022

Manjeet Kumar

.....Petitioner

versus

State of Haryana

.....Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Paramjit Singh Jammu, Advocate for the petitioner

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ALKA SARIN, J. (Oral):

Notice of motion.

Mr. Saurabh Khurana, AAG Haryana, who is present in Court, accepts notice on behalf of the respondent-State of Haryana.

This is a second petition under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail to the petitioner in FIR No.64 dated 10.02.2020 registered under Section 22-C of the Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act) at Police Station Ellenabad, District Sirsa. The first petition being CRM-M-34025-2020 was dismissed vide a detailed speaking order dated 22.12.2020.

At the outset, this Court put a query to the learned counsel for the petitioner as to how a second petition for anticipatory bail is maintainable especially in view of the fact that a speaking order had been passed in the earlier petition being CRM-M-34025-2020. The learned counsel for the petitioner has stated that he does not have any case law which he wishes to rely upon.

The allegations in the FIR are that on 10.02.2020, during patrolling duty by police officials at village Khari Surera, secret information was received regarding concealing of narcotic substances by the petitioner and the co-accused Mohan Lal in a heap of cow-dung at Nayak Mohalla. On the basis of the information, a notice under Section 42 of the NDPS Act was prepared and sent to the DSP (Headquarters) Sirsa for information through Constable Sudesh Kumar. Thereafter, the police party reached the spot. On arrival and on instructions of DSP (Headquarters) Sirsa, a Gazetted Officer Vedpal, BDPO, Ellenabad was called and the cow-dung was dug up. A total of five bags were recovered from the heap. On opening of the five bags, it led to the recovery of 35600 intoxicating tablets marked RIDLEY PARVORIN SPAS TRAMADOL HYDROCHLORIDE. The total weight of the intoxicating tablets is 17 kgs 774 grams, which falls under the commercial category.

Learned counsel for the petitioner would contend that the moot point in the present case would be that the recovery has not been made from the conscious possession of the petitioner. It is further the contention that the petitioner has falsely been implicated in the case. The learned counsel has

further stated that the co-accused (his father) has since been granted regular bail by this Court on 24.08.2022 in CRM-M-14769-2022.

Learned counsel for the State has contended that the petitioner is also involved in another FIR being FIR No.55 of 2020 under Sections 26/61 and 85 of the NDPS Act. It is further the contention that the recovery from the petitioner is of a heavy commercial quantity. It is further contended that the father of the petitioner was arrested and he disclosed in his disclosure statement that the petitioner, who is his son, deals in selling of intoxicants and it is the petitioner who manages to procure the intoxicants and then the same are sold by the father. The learned State counsel further has stated on instructions that despite raids being conducted they have not been able to arrest the petitioner.

Heard.

In the present case the reliance by the learned counsel on the order passed in CRM-M-14769-2022 is wholly misplaced in as much as in the said case the co-accused was granted bail after being in custody for a period of 01 year, 11 months and 09 days. It is also noticed in the order that he was not involved in any other case under the NDPS Act and that he was 67 years of age.

The recovery in the present case is of 35600 intoxicating tablets of RIDLEY PARVORIN SPAS TRAMADOL HYDROCHLORIDE. The total weight of the intoxicating tablets is 17 kgs 774 grams. The Supreme Court in the case of **G.R.Ananda Babu Vs. State of Tamil Nadu & Anr. [2020 SCCOnline SC 176]** has held that successive anticipatory bail applications

ought not to be entertained. In para-7 of the said judgment, the Hon'ble Apex Court has held as under :

“7. As a matter of fact, successive anticipatory bail applications ought not to be entertained and more so, when the case diary and the status report, clearly indicated that the accused (respondent No.2) is absconding and not cooperating with the investigation. The specious reason of change in circumstances cannot be invoked for successive anticipatory bail applications, once it is rejected by a speaking order and that too by the same Judge.”

The FIR in the present case was registered as far back as on 10.02.2020. A period of almost 2 years and 9 months has passed and the petitioner has been evading arrest. There is absolutely no ground made out to entertain the present petition.

In view of the above, I do not find this to be a fit case to entertain the second petition for grant of anticipatory bail. The same is accordingly dismissed. Pending applications, if any, also stand disposed off.

It is made clear that any observation made herein shall not be treated as an expression of opinion on the merits of the case.

05.12.2022
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(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking Whether reportable: YES/NO
