

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

CRM-M-3935-2023

DECIDED ON: 27.03.2023

MUKHA

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Sandeep Kumar Passi, Advocate
for the petitioner.

Mr. Mohit Chaudhary, AAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

This is a petition seeking regular bail in FIR No.47, dated 03.07.2022, under Section 22 of NDPS Act, 1985 and Section 29 of NDPS Act, 1985 added later on registered at Police Station Arif Ke, District Ferozepur (Annexure P-1).

Learned counsel for the petitioner contends that the petitioner has been alleged to be involved in selling intoxicants and recovery of alleged contraband is 160 tablets of Radol-100 containing tramadol Hydrochloride and 200 tablets of Etirelax-0.5. The weight of each tablet is 338.17 mg and total weight of these tablets comes to 54.10 grams, apart from salt contained in the tablets of Etirelax 0.4, which is not for chemical analysis.

Learned counsel for the petitioner further contends that manufacturing date as well as the batch merely shows that the tablets alleged to have been recovered from the possession of the petitioner has already been

expired and as per prosecution tablets were itself purchased by the petitioner from one Raju from his chemist store two years back to the registration of the instant FIR. During this period, the petitioner stated to have been in custody in another FIR as well and, therefore, by no stretch of imagination, the prosecution story clearly shows to the effect that if he purchased these alleged recovered tablets two years back and now was selling it, despite the fact that same stands expired. In fact, it would go against the prosecution that false plantation has been made upon the petitioner using some destroyed tablets of Radol 100 and Etirelax 0.5.

Learned State counsel has filed the custody certificate of the petitioner, which is taken on record. According to the custody certificate, the petitioner is behind the bars for the last 8 months and 24 days and the petitioner is involved in another case bearing FIR No.84 dated 17.10.2019, under Sections 22/29/61/85 of NDPS Act, registered at Police Station Mallanwala, in which he has been sent on judicial remand vide order dated 18.11.2020 passed by the Special Court, Ferozepur.

Considering the aforesaid submissions that the date of instant FIR is 03.07.2022 and of another FIR is 17.10.2019, clearly corroborates the assertions made by the learned counsel for the petitioner that he was inside in FIR No.84 dated 17.10.2019, under Sections 22/29/61/85 of NDPS Act, 1985, registered at Police Station Mallanwala at the time, when the alleged recovery in the instant FIR has been falsely planted upon him of expired intoxicants, as is evident from the manufacturing date as well as the date of expiry mentioning on the packing wrappers apart from the custody period undergone by the petitioner i.e., 8 months and 24 days added with the fact that there is prima facie chances of false implication, which cannot be ruled at this stage,

the petitioner is directed to be released on regular bail on his furnishing bail and surety bonds to the satisfaction of the Chief Judicial Magistrate/Duty Magistrate, concerned.

The present petition is, hereby, allowed.

However, it is made clear that anything stated hereinabove shall not be construed as an expression of opinion on the merits of the case.

27.03.2023

Meenu

(SANDEEP MOUDGIL)
JUDGE

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