

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

106

CRM-M-4997-2023
Date of decision : 01.02.2023

Davinder SinghPetitioner

Versus

State of Punjab Respondent

CORAM: HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: - Mr. Atul Goyal, Advocate for the petitioner.

Mr. Joginder Pal Ratra, Senior D.A.G., Punjab.

ASHOK KUMAR VERMA, J. (ORAL)

The petitioner has filed the present petition under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail in case FIR No.77 dated 21.05.2021 registered under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station City Khanna, Police District Khanna.

Brief facts of the case are that on 21.05.2021 at about 6:30 p.m. SI Amrik Singh has received a secret information that Davinder Singh (the petitioner), who is doing the business of selling intoxicant tablets, coming to Samrala side on his scooter in order to supply narcotic tablets in huge quantity. On such information, the formal FIR was registered and the petitioner was apprehended. On search, 25 strips containing 10 tablets each of Etizolam JP Rolin 0.5 mg and 250 loose tablets of Tramadol (total 500 tablets) were recovered from his scooter.

Learned counsel for the petitioner has argued that the petitioner has been falsely implicated in the present case. The petitioner is a owner of a chemist shop and actually he was arrested from his shop.

The DVRs installed in the shop were also destroyed by the police. The scooter of the petitioner was taken by the police from the market where the shop of the petitioner is situated. The alleged recovery from the petitioner is a planted one. The petitioner has been running the chemist shop since more than 20 years and he keeps getting renewed his license time to time. He had renewed his licence in the year 2017 which was valid from 01.01.2018 till 31.12.2022, meaning thereby at the time of alleged occurrence, the petitioner was having valid license. In the said licence there was no prohibition to keep Etizolam or Tramadol. It is only vide notification dated 23.03.2021 the Etizolam has been declared to be a psychotropic substance and has been added in the Schedule to the NDPS Act. The petitioner was granted concession of interim bail vide order dated 06.07.2021 till the receipt of chemical examiner's report. Now, the FSL report has been received. Therefore, the petitioner may be granted anticipatory bail.

On the other hand learned State counsel opposed the present petition on the ground that 25 strips containing 10 tablets each of Etizolam JP Rolin 0.5 mg and 250 loose tablets of Tramadol (total 500 tablets) were recovered from the petitioner and 250 tablets of Etizolam (weighing 31.750 grams) falls under the category of commercial quantity. Even otherwise, when, vide notification dated 23.03.2021 the Etizolam has been declared to be a psychotropic substance and has been added in the Schedule to the NDPS Act then the petitioner should have deposed of the same.

Having heard learned counsel for the parties, I am of the view that the allegations against the petitioner are serious in nature. As

per FSL report, the contents of Etizolam tablets were 'Etizolam Salt', which falls under the NDPS Act. The alleged recovered quantity of 250 tablets of Etizolam would come out to be 31.750 grams which falls under the category of commercial quantity which attracts rigors of Section 37(1)(b) of the NDPS Act.

The Hon'ble Apex Court in case *State of Punjab Vs. Baldev Singh : 1999 AIR SC 2378* has observed regarding Drug Addiction, Drug abuse and its effect on the society. The Hon'ble Apex Court in Para No.3 has observed as under:-

“3. Drug abuse is a social malady. While drug addition eats into the vitals of the society, drug trafficking not only eats into the vitals of the economy of a country, but illicit money generated by drug trafficking is often used for illicit activities including encouragement of terrorism. There is no doubt that drug trafficking, trading and its use, which is a global phenomena and has acquired the dimensions of an epidemic, affects the economic policies of the State, corrupts the system and is detrimental to the future of a country. It has the effect of producing a sick society and harmful culture. Anti-drug justice is a criminal dimension of social justice. The United Nations Conventions Against Illicit Trafficking in Narcotic Drugs and Psychotropic Substances which was held in Vienna, Australia in 1988 was perhaps one of the first efforts, at an international level, to tackle the menace of drug trafficking throughout the comity of nations. The Government of India has ratified this convention.”

Keeping in view the aforementioned facts and circumstances and nature of averments, the petitioner does not deserve the concession of anticipatory bail. Hence, the present petition is hereby dismissed.

01.02.2023

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(ASHOK KUMAR VERMA)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No