

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

CRM-M-14311-2022

Date of Decision: 27.04.2023

SAURABH KUMAR

...Petitioner

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Naresh Kumar Ganga, Advocate
for the petitioner.

Mr. Amrik Narwal, D.A.G., Haryana.

HARSH BUNGER, J. (Oral)

Prayer in this petition is for grant of regular bail to the petitioner in case FIR No. 275 dated 30.9.2021 registered under Sections 22(c) of the Narcotics Drugs and Psychotropic Substances Act 1985 (for short 'the NDPS Act'), at Police Station Kalanwali, District Sirsa (Annexure P-1).

2. Status report by way of an affidavit dated 01.03.2023 of Sh. Yad Ram, HPS, Deputy Superintendent of Police, Kalanwali, District Sirsa on behalf of respondent/State has been filed, which is already on record.

3. It is the case of the prosecution that on 30.9.2021, a police party headed by SI Dalip Singh apprehended present petitioner Saurabh Kumar, near T Point of Ex. MLA Balkaur Singh, in the area of Mandi Kalanwali when he came there carrying a bag in his hand. After complying with the mandatory provisions of the Act, search of the bag, carried by the accused, was conducted, which resulted in recovery of 22 bottles of Rx *Chlorpheniramine Maleate & Codeine Phosphate Syrup Omerex cough*

Syrup 100ml, Batch No. TBHU1514 Mfg. 09/2021 and Exp. 08/2022. The petitioner accused could not produce a license/permit for the same. Accordingly, the FIR in question was registered.

4. Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case. It is submitted that a perusal of the FIR would show that the recovery was made from the bag which was carried by the petitioner. It is further stated that the petitioner has been in custody since 30.9.2021; investigation of this case is complete; challan stands presented on 08.03.2022 and even charges have been framed dated 11.07.2022. Learned counsel next submits that there are total 15 witnesses , out of which, only 4 witnesses have been examined so far and the trial would take some time and there is no other case against the petitioner. It is stated that the petitioner is ready to abide by all the conditions as may be imposed by this Court or by the trial Court; accordingly prayer for grant of regular bail is made.

5. Learned State counsel opposes the plea of petitioner for grant of regular bail on the ground of seriousness of the offence. He further submits that as per FSL report dated 22.2.2022, “Codeine and Chlorpheniramine” were detected in the sample collected from the total recovery of *22 bottles of Rx Chlorpheniramine Maleate & Codeine Phosphate Syrup Omerex cough Syrup 100ml, Batch No. TBHU1514 Mfg. 09/2021 and Exp. 08/2022*, which falls under the category of ‘commercial quantity’; hence bar under Section 37 of the NDPS Act is attracted. Learned State counsel further submits that though heavy quantity of bottles without any documents have been recovered from the possession of the petitioner; hence, he is not entitled to the concession of regular bail. It is submitted that in case, the petitioner is enlarged on regular bail then he may tamper

with the evidence and influence the material witnesses or he may abscond and flee from justice which may delay the trial; accordingly, prayer for dismissal of the petition has been made.

6. I have heard learned counsel for the parties and perused the paper book as well as status report filed by learned State counsel, which is already on record.

7. In the instant case, the petitioner was apprehended with contraband, which falls under the category of commercial quantity and hence, the rigors of Section 37 of the NDPS Act, are attracted. There is nothing on record of this case so as to enable this Court to record a *prima facie* satisfaction with regard to the terms and conditions envisaged under Section 37 of the NDPS Act. Moreover, when the accused is facing serious charges, he may develop temptation to jump the bail. The apprehension expressed by the State counsel that if released on bail, there is every likelihood of the petitioner trying to tamper with the prosecution evidence by giving threats and inducement to the prosecution witnesses and absconding even to prolong the trial, cannot be brushed aside lightly. Furthermore, there is every possibility that the petitioner may take path of crime again, in case, he is enlarged on bail.

8. Thus in my considered view, the gravity and seriousness of allegations with likelihood of petitioner tampering with the prosecution evidence and even absconding being there, no ground for grant of regular bail to the petitioner is made out. Accordingly, the present petition under Section 439 Cr.P.C. seeking grant of regular bail to the petitioner (Saurabh Kumar) in case FIR No.275 dated 30.09.2021 (Annexure P-1) under Section 22(c) of the NDPS Act, registered at Police Station Kalanwali,

District Sirsa; is dismissed.

9. Nothing stated here-in-above shall be construed as an expression of opinion on the merits of the case and the trial would proceed independently of the observations made in the present case which are only for the purpose of adjudicating the present bail petition.

10. Pending application/s, if any, shall also stand disposed of.

April 27, 2023
gurpreet

(HARSH BUNGER)
JUDGE

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