

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-38903-2022 in/and
CRM-M- 25940-2022 (O&M)
Date of Decision: 20.02.2023

Dinesh Bansal

... Petitioner

V/s.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present : Mr. Sunil Chadha, Senior Advocate with
Mr. Aditya Jain, Advocate
for the petitioner.

Mr. Bhupender Singh, DAG, Haryana.

DEEPAK MANCHANDA, J.(Oral)

CRM-38903-2022

The instant application has been filed for placing on record the
the additional document as Annexure P-12.

For the reasons mentioned therein, the application is allowed.

Document as Annexure P-12 is taken on record subject to all
just exceptions.

CRM-M- 25940-2022

Petitioner has prayed for grant of regular bail under
Section 439 Cr.P.C. in case FIR No. 682 dated 10.12.2021, under
Section 22 of NDPS Act and later on added Sections 120-B, 201 IPC
registered at Police Station Sector 32-33 Karnal.

Learned Senior counsel for the petitioner contends that the petitioner is in custody since 02.02.2022, who is a distributor having a valid licence to sell, stock or exhibit (or offer) for sale or distribute by whole-sale the drugs , which is valid from 29.05.2020 to 28.05.2025 (Annexure P-1) but has been falsely implicated in the present case as he has been nominated on the basis of disclosure statement made by himself and the alleged co-accused Savita Chhabra, the owner of M/s Vandan Medical Store, who has been granted concession of interim bail by the Hon'ble Supreme Court on 28.11.2022. Learned Senior counsel further contends that the petitioner sold the medicines strictly in terms of provisions of Section 18 of the Drug and Cosmetics Act, 1940 which reflects qua the prohibition of manufacture and sale of certain drugs and cosmetics and for a licence holder, the quantity is immaterial as there is no bar qua the quantity. It is argued that on 26.06.2021, proprietor of M/s Vandan Medical Store (M/s Vandan Medical Store), Shop NO. 4, Gali No. 23, Sohana Road, Karan Vihar Karnal -132001 namely Savita placed the order of Alpax (Aprazolam) 0.50 tablets 399 boxes packing 10x6x10 and requested the petitioner's firm to supply as soon as possible. Upon which petitioner's firm i.e. Bansal Pharma (Petitioner's firm), N.K. Sharma Road, Badal Colony Zirakpur (PB) issued Tax invoice on 30.06.2021 amounting to Rs. 84907/- (including IGST) in the name of M/s Vandan Medical Store and also prepared e-Way Bill on 01.07.2021. Thereafter, the aforesaid tablets were booked for delivery through Nirman Goods Carriers on the same day i.e. 01.07.2021. The ledger of the petitioner's Firm shown balance against M/s Vandan Medical Store. (Copy of Purchase order dated 26.06.2021, Tax Invoice dated 30.06.2021, e-Way Bill dated 01.07.2021, Booking of consignment through

Nirman Goods Carriers dated 01.07.2021, Ledger of Zannet Pharma and petitioner's firm and Booking register is annexed as Annexure P-2, P-3, P-4, P-5, P-6, P-7 and P-8 respectively. It is further argued that the bare perusal of the aforesaid Annexures would show that Savita Chhabra proprietor of M/s Vandan Medical Store placed order to petitioner's firm for immediately supply of Alpax tablets upon which petitioner's firm booked through Nirman Goods Carrier which was duly received by Aryavart Motor Transport Co. for further delivery to M/s Vandan Medical Store. Hence question of violation of any of the provisions of the NDPS Act or rule or order made or condition of license granted thereunder by the petitioner's firm does not arise at all as petitioner's firm was supplying the drugs under the Drugs and Cosmetics Act. Learned Senior counsel further contends that the petitioner is covered under Rule 66(1) of the NDPS Rules, where it is held that any person holding valid drug sale licence can stock for sale, distribution the medicinal drugs. As such, the provisions of Section 22 of the NDPS Act are not attracted in case of the petitioner. Learned Senior counsel submits that nothing has been recovered from the petitioner and the investigation has also been completed, whereas the challan stands presented though charges are yet to be framed and the conclusion of trial will take sufficient time, therefore, the petitioner be enlarged on bail. He further submits that the bare perusal of the contents of the challan clearly shows that no incriminating evidence has come on record against the petitioner, which shows the false implication of the petitioner in the present case.

Per contra, learned counsel appearing on behalf of respondent-State, on instructions from the Investigating Officer, opposes the grant of regular bail to the petitioner, while submitting that the offence alleged

against the petitioner is serious in nature and he is involved in other case as well. However, he does not dispute the fact that the challan stands presented and the investigation is complete.

I have heard learned counsel for the parties.

Petitioner is in incarceration since 02.02.2022. It is not a case made out by the respondent-State that in case concession of bail is granted to the petitioner, he would hamper the course of free and fair trial.

Vide previous order dated 06.02.2023, this Court put a specific query qua validity of licence issued to the petitioner to the effect that whether he is authorized to sell such a huge quantity and State counsel was directed to assist the Court. In response thereto, learned State counsel has supplied the copy of a letter received from the office of Food and Drugs Administration, Karnal, Haryana bearing No.DCO-KNL-2023/75 dated 18.02.2023, the contents of which are reproduced as under:-

“It is to inform you that there is no specific quantity for storage of any drug in licensed Wholesale firm and Retail firm mentioned in Drugs and Cosmetic Act, 1940. If any firm holding Wholesale Drug License issued under the Drugs and Cosmetics Act, 1940 can purchase or supply any Qty. of Alprazolam formulation only on the valid purchase invoice or valid sale invoice and he can purchase drugs for a duly licensed firm or can sell to a duly licensed firm. Any firm holding Retail Sale Drug License can sell formulation of Alprazolam only on the prescription of a Registered Medical Practitioner by issuing sale invoice”.

In view of above and since matter has been investigated and the challan stands presented and trial would take sufficient time, no useful purpose would be served in keeping the petitioner behind bars.

Resultantly, without meaning any expression of opinion on the

merits of the case, it is ordered that the petitioner be released on regular bail subject to his furnishing requisite bail bonds/surety bonds to the satisfaction of the trial Court concerned on the following conditions:-

- 1. *he shall appear before the Court on each and every date of hearing;*
- 2. *he shall not give any threat or intimidation to the prosecution witnesses;*
- 3. *he shall not indulge in any criminal activity;*
- 4. *he shall not leave India without prior permission of the Court.*

The Court accepting bonds would ensure that two local sureties who are financially sound having immovable properties within jurisdiction of the district furnish the bonds.

In addition to that the trial Court may impose any term and condition found suitable to ensure that the petitioner does not abscond and interfere in the trial.

In case the petitioner violates any terms and conditions on which the bail has been granted to him, the prosecution would be entitled to apply for cancellation of his bail.

The petition is allowed.

(DEEPAK MANCHANDA)
JUDGE

20.02.2023
seema

Whether speaking/reasoned	Yes
Whether Reportable	Yes /No