

**215 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CRM-M No.30298 of 2023 (O&M)
Date of decision : 31.10.2023**

Yash Pal @ Yash Juneja

..... Petitioner

versus

State of Haryana

..... Respondent

CORAM : HON'BLE MR.JUSTICE PANKAJ JAIN*******

Present :- Mr. Sandeep Kotla, Advocate
for the petitioner.

Mr. Gaurav Bansal, DAG, Haryana.

*********PANKAJ JAIN, J. (ORAL)**

1 On 13.07.2023 the following order was passed:-

“Apprehending his arrest in FIR No.553, dated 7th of May, 2023, registered for offences punishable under Sections 22, 25 and 29 of the NDPS Act, at Police Station City Panipat, District Panipat, the petitioner has preferred this petition under Section 438 Cr.P.C. seeking pre-arrest bail.

As per the case of the prosecution one Rahul Popli son of Lakshman Dass was apprehended and searched after complying with Section 50 of the NDPS Act. 36 strips i.e. 360 tablets of Alprazolam Tablets IP P.5 MG Marka Aprasafe, a banned medicine was recovered. As per the disclosure made by Rahul Popli he purchased about 1200 tablets from the present petitioner and out of that 360 tablets recovered by the police were left to be dealt.

Counsel for the petitioner submits that there is nothing on record which can trace to the petitioner apart from a disclosure statement made by the main accused Rahul Popli. The petitioner has no criminal antecedents of having indulged in any criminal activity. He further submits that investigation already stands concluded and Rahul Popli the main accused already stands admitted to regular bail. All the evidence being in possession of the Investigating Agency there can't be any apprehension that the petitioner shall tamper with the evidence.

Per contra, State Counsel on instructions from ASI Balinder Singh submits that keeping in view that the main accused has suffered a statement to the effect that it is the petitioner who is the main source of the contraband, the custodial interrogation of the petitioner is required for proper investigation of the matter in hand. He submits that it is not the residual quantity recovered but it is the initial quantity alleged to have been supplied by the petitioner that is the cause of worry.

I have heard counsel for the parties and have gone through records of the case.

The conduct of the IO has already been culled out in the order dated 5th of July, 2023 to the following effect :-

“On being asked from ASI Balinder Singh, who is present in Court as to whether he has checked the stock of the medical store wherein Rahul Popli was working, he submitted “yes I have checked the stock and no stock of Alprazolam was found in the said store”. On being asked to show zimni w.r.t. the same, he submits that there was no zimni recorded to that respect. Later on, he admitted that in fact he has not checked the stock and what he stated in answer to the first query was “factually wrong”.

Apart from that the prosecution admits that there is no criminal history of the petitioner and the contraband recovered from co-accused also does not fall within the ambit of 'commercial quantity' as notified under the NDPS Act.

In the circumstances, the petitioner, in the event of his arrest, shall be released on interim bail subject to his furnishing personal and surety bonds to the satisfaction of the Arresting Officer/Investigating Officer. As and when called, the petitioner shall join the investigation. He shall abide by the conditions enumerated under Section 438(2) of the Cr.P.C.

However, in addition to the conditions enumerated under Section 438(2) Cr.P.C., the petitioner shall be bound by the following conditions :

- (i) The petitioner shall not mis-use the liberty granted.*
- (ii) The petitioner shall not tamper with any evidence oral or documentary during the trial.*
- (iii) The petitioner shall not absent himself on any date before the trial/investigating agency.*
- (iv) The petitioner shall not commit any offence similar to the one alleged in the present case.*
- (v) The petitioner shall give his cellphone number to the police authorities and shall not change his cell-phone number*

without permission of the trial Court.

(vi) The petitioner shall not in any manner try to delay the trial.

Adjourned to 18.09.2023.”

2 Learned State counsel on instructions from ASI Balwinder Singh has stated that pursuant to the order dated 13.07.2023 the petitioner has joined investigation and is no longer required for custodial interrogation.

3 In view of above, the interim order dated 13.07.2023 passed by this Court is made absolute, subject to the conditions as enumerated under Section 438(2) Cr.P.C.

4 This order should not be treated as "blanket" order. It will not be read granting petitioner indefinite protection from arrest. It shall be confined to the FIR mentioned *ibid* and will not operate in respect of any other incident that involves commission of an offence.

5 This order does not in any manner limit or restrict the rights or duties of the police or investigating agency, to investigate into the charges against the petitioner.

6 The petitioner shall be deemed to be in custody for the purpose of Section 27 of the Evidence Act, 1872 in regard to a discovery of facts made in pursuance of information supplied by the petitioner in case the occasion arises.

7 It will be open to the police or the investigating agency to move this court for a direction under Section 439 (2) Cr.P.C. to arrest the accused, in the event of violation of any term, such as absconding, non-cooperating during investigation, evasion, intimidation or inducement to witnesses with a view to influence outcome of the investigation or trial.

8 Petition stands disposed off.

9 Needless to say that anything observed herein shall not be construed to be an opinion on the merits of the case.

(PANKAJ JAIN)
JUDGE

31.10.2023

Pooja sharma-I

Whether speaking/reasoned
Whether Reportable :

Yes
No