

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M No. 35996 of 2023
Reserved on:-12.12.2023
Pronounced on:20.12.2023

NIRMAL SINGH

... Petitioner

Versus

STATE OF PUNJAB

... Respondent

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY.

Present:- MR. Satnam Singh Gill, Advocate for the petitioner.

Mr. Subhash Godara, Addl. AG, Punjab.

.....

SANJIV BERRY, J. (ORAL)

The instant petition has been preferred by the petitioner under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail to the petitioner in the following case:-

FIR No.	Dated	Sections	Police Station
69	18.06.2023	22 and 29 of NDPS Act	Julkan , District Patiala

2. In *nutshell*, brief facts of the case are that on 17.06.2023, while police party was on patrolling in village Akbarpur Afgana and checking the vehicles, spotted van of white color and apprehended Rajiv Kumar alias Raju and on checking 33 strips of Diphenoxylate Hydrochloride & Atropine Sulfate Tablets IP Lomotil containing 60 tables in each strip totalling to

1980 Intoxicant Tablets were recovered and as such FIR was registered. During the course of investigation accused disclosed that he had purchased intoxicants from Abhishek Kumar @ Aman Batra and further sold to Nirmal Singh owner of Nirmal Medical Store, Dudhan Sadhan.

3. It is *inter alia* contended by learned counsel for the petitioner that the petitioner was not named in the FIR but was nominated on disclosure statement made by co-accused Rajiv Kumar and from whom alleged intoxicant tablets were recovered. He submits that the petitioner has no concern with the alleged recovery. He submits that raids on the premises of the petitioner was conducted by the police on 19.06.2023 and 20.06.2023 and no contraband/intoxicant tablets of any kind have been recovered. He submits that petitioner is dealing with the business of Medicines and is having proper bills and record regarding purchase and sales from different pharmaceutical agencies. Learned counsel submits that there is no other evidence available with regard to the involvement of the petitioner apart from the disclosure statement and its evidentiary value is debatable. He submits that there is no other case registered against the petitioner who happens to be duly licensed Chemist and had been selling medicines as per the terms and conditions of licence and had never indulged in any case of narcotics, as such he prayed for grant of concession of bail to the petitioner.

4. On the other hand learned State counsel has opposed the bail application by arguing that the petitioner was nominated on the disclosure statement made by co-accused Rajiv Kumar from whom intoxicant tablets were recovered and alleged that he used to sell narcotic medicines to the

petitioner and accordingly the custodial interrogation of the petitioner is required. He submits that from the call details obtained, it transpires that petitioner was in touch with Rajiv Kumar.

5. After considering the respective submissions and perusing the record, admittedly one Rajiv Kumar was apprehended by the police at the spot and recovery of contraband was effected from him and it has come in his disclosure statement that he used to sell medicines to the petitioner. It is not disputed that petitioner is running a medical store and is duly licensed. During course of arguments it transpires that raid was conducted on the premises of petitioner on 19.06.2023 and 20.06.2023 but no recovery was effected. So far as the call details are concerned, learned counsel for the petitioner has not denied this fact as he was running a medical store and had telephonic conversation with Rajiv Kumar who was supplier of medicines but has never dealt with any narcotics. There is no other material evidence available at this stage apart from the disclosure statement, the value thereof is debatable. There is no other criminal case registered against the petitioner and no recovery has been effected even from the raids on the premises of the petitioner.

6. Considering all these circumstances the present petition is allowed and the petitioner is directed to join the investigation within seven days from today and in the event of arrest of the petitioner, the petitioner is ordered to be released on bail on his furnishing personal/surety bonds to the satisfaction of the Arresting Officer/Investigating Officer. He shall also abide by conditions as envisaged under Section 438(2) Cr.P.C.

7. The petition stand allowed.
8. It is further made clear that in case the petitioner is found involved in any case under NDPS Act, after his release on bail, it will be open for the prosecution to move an application for cancellation of his bail in accordance with law.
- 9 Anything contained hereinabove shall not be construed to be an expression of opinion on the merits of the case.

(SANJIV BERRY)

JUDGE

20.12.2023

Gyan	i)	Whether speaking/reasoned?	Yes/No
	ii)	Whether reportable?	Yes/No