

CRM-M- 47400-2022 (O&M)

-1-

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M- 47400-2022 (O&M)

Date of Decision: 01.06. 2023

Nitin Chhabra

... Petitioner

V/s.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present : Mr. Harkirat Singh Ghuman, Advocate
for the petitioner.

Mr. Karan Garg, AAG, Haryana.

DEEPAK MANCHANDA, J.(Oral)

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 and 201 IPC registered at Police Station Sector 32-33, Karnal, who is alleged to have ordered 399 boxes of Alpax (Alprazolam) under the name of M/s Vandan Medical store (whose proprietor is petitioner's wife Savita Chhabra) and purchased 2,39,400 tablets and sold them illegally and also possessed drug money of Rs.48,000/.

Learned counsel for the petitioner contends that the petitioner is in custody since 23.06.2022 and has been falsely implicated in the present case as no recovery has been effected from the conscious possession of the

CRM-M- 47400-2022 (O&M)

-2-

petitioner. It is also contended that as per form 21-B(Annexure P-2),the co accused namely Satish Kumar is the responsible person ,who used to look after the sale of medicines etc. from the proprietorship firm M/s Vandan Medical Store and petitioner did not sign any purchase order.

Learned counsel further contends that said consignment was never delivered to the M/s Vandan Medical Store as same were sent through one Nirman Goods Carrier to Aryavrat Motors Transporters and not to the M/s Vandan Medical Store and as per recovery memo in respect of delivery receipt ,there is no signature of the petitioner on any of the bills and rather it is signed by one 'Jai' of Aryavart Motor Transport Company Karnal(Annexure P-11).

He submits that the confession statement of other co-accused is not admissible in the eyes of law and is not a substantive piece of evidence. Learned counsel further submits that challan stands presented though charges are yet to be framed and argues that ,the other co-accused namely Savita Chhabra has already been granted bail by Hon'ble Supreme Court in SLP(Crl) No.11352/2022 vide order dated 2/2/2023 and other co-accused i.e Dinesh Bansal has also been granted regular bail by this court vide order dated 20/2/2023 passed in CRM-M-125940-2022.Ld counsel again submits that though the recovery is commercial but it has not been effected from the conscious possession of the petitioner, and the petitioner is in custody since long time in the present case, where the conclusion of trial will take sufficient time, therefore, prayer is made for the petitioner to be enlarged on bail.

CRM-M- 47400-2022 (O&M)

-3-

Custody certificate has been filed by the respondent-State, which is taken on record. Even though 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 other cases have also been registered against the petitioner, however he does not dispute the fact that challan stands presented and the other co-accused have already been released on bail.

Confronted with the same learned counsel for the petitioner submitted that nothing has been recovered from the petitioner and though other FIRs are pending against the petitioner yet as per settled law laid down by the Apex Court in *Maulana Mohd. Amir Rashdi vs. State of Uttar Pradesh and Another in Criminal Appeal No. 159 of 2012*, it is the facts of the present case which are required to be considered for the purpose of deciding the present bail application.

I have heard learned counsel for the parties.

Petitioner is in incarceration since 23.06.2022.

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. Further, since nothing has been recovered from the conscious possession of the petitioner and the claim is on parity with the co-accused and the challan stands presented ,where the trial would take sufficient time,so 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

CRM-M- 47400-2022 (O&M)

-4-

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.*

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 accordingly.

(DEEPAK MANCHANDA)
JUDGE

01.06.2023
seema

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether Reportable</i>	<i>Yes /No</i>