

CRM-M-49975-2023

2023:PHHC:150114

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(221)

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-49975-2023

Date of Decision: 23.11.2023

INSTAB ALAM

... Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. P.S. Sekhon, Advocate
for the petitioner.

Mr. Kirat Singh Sidhu, DAG, Punjab.

JASJIT SINGH BEDI, J.

The prayer in the present petition under Section 439 Cr.P.C. is for the grant of regular bail in case bearing FIR No.139 dated 26.05.2019 registered under Sections 22 and 29 of the NDPS Act, 1985 at Police Station Sadar Dhuri, District Sangrur.

2. The brief facts of the case are that secret information was received that Instab Alam (petitioner) son of Mehmood Ali C/o Alam Medical Agency used to bring heavy quantity of intoxicant medicines from Gafura @ Ali son of Mohd. Deen C/o Ali Medical Hall, Saraud Road for supply in the area of Sunam and Sangrur. Instab Alam was travelling in his car bearing No.PB-28-G-2624 after purchasing a heavy quantity from the said Gafura and was going to Sangrur City via Dhuri for supplying the said intoxicant medicines. If a Nakabandi was set up, he could be apprehended.

Based on the aforementioned information, the FIR was registered and a Nakabandi was set up. The Car bearing No.PB-28-G-2624

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was seen coming from the side of Dhuri and on seeing the Nakabandi, the car driver tried to turn back. However, the car stopped. On being asked, the driver disclosed his name as Instab Alam (petitioner). The recovery of 8000 tablets of Clovidol-100 SR came to be effected from the vehicle.

3. The learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. In fact, he had been picked up from his chemist shop and his arrest has been shown from else where. The petitioner was the owner of Alam Medical Agency and was a valid licence-holder upto 08.02.2023. There was no ban on keeping medicines such as Tramadol as was apparent from Form No.20-B and Form No.21-B (Annexures P-2 & P-3). The petitioner had purchased these medicines from Vivcare Lifesciences vide Bill/GST Invoice dated 23.05.2019 (Annexure P-4). The licence of the petitioner had been verified and it had been found that not only was it valid but there was no ban on keeping the Tramadol medicine on a bill. When the petitioner had sought the concession of regular bail, the statement of Sub-Inspector Basant Singh had been recorded who stated that Bill No.0000211 dated 23.05.2019 had been verified from Vivcare Lifesciences and was found to be genuine. As the petitioner was a first-time offender, in custody since 02.11.2022 and only 01 of the 19 prosecution witnesses had been examined so far, the Trial of the present case was not likely to be concluded anytime soon and therefore, the petitioner was entitled to the concession of bail.

4. A status report dated 22.11.2023 by way of an affidavit of Talwinder Singh Gill, PPS, Deputy Superintendent of Police, Sub-Division Dhuri, District Sangrur has been filed on behalf of the State by the learned

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counsel for the State. The same is taken on record. While referring to the reply, he contends that while it is true that the petitioner was a licenced chemist and the Bill/Invoice dated 23.03.2019 (Annexure P-4) had been found to be genuine, when the recovery had been effected on 26.05.2019, at that time, no bill or proof/authorization for possessing or transporting such a heavy quantity of tablets was produced by the petitioner or any of his representatives. It was only on 17.06.2019 almost 21 days from the date of the recovery that the licence and the bill were brought to the notice of the Investigating Agency. Even otherwise, while the petitioner was indeed permitted to keep the tablets purchased on a bill in his chemist shop, he could not transport/sell the same without any permission/authorization. Therefore, the offence in question had been committed. He, however, admits that the petitioner was a first-time offender, in custody since 02.11.2022 and that only 01 of the 19 prosecution witnesses had been examined so far.

5. I have heard the learned counsel for the parties.

6. Admittedly, the petitioner is a licenced chemist. As per record, the medicines recovered from him while he was allegedly in transit were purchased on a bill. The bill has been found to be genuine. Whether or not the petitioner was picked up from his chemist shop or arrested at a Nakabandi on the road shall be adjudicated upon during the course of the Trial. The petitioner is stated to be a first-time offender, in custody since 02.11.2022 and only 01 of the 19 prosecution witnesses have been examined so far. In this factual scenario, a *prima facie* satisfaction under Section 37 of the NDPS Act can be recorded and the case of the petitioner can be considered for the grant of bail.

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7. Thus without commenting on the merits of the case, the present petition is allowed and the petitioner-Instab Alam son of Mohd. Ali is ordered to be released on bail subject to his furnishing bail bonds and surety bonds to the satisfaction of learned CJM/Duty Magistrate, concerned.
8. The petitioner shall appear before the police station concerned on the first Monday of every month till the conclusion of the trial and inform in writing each time that he is not involved in any other crime other than the present case.
9. In addition, the petitioner (or anyone on his behalf) shall prepare an FDR in the sum of Rs.1,00,000/- and deposit the same with the Trial Court. The same would be liable to be forfeited as per law in case of the absence of the petitioner from trial without sufficient cause.
10. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

23.11.2023

JITESH

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