

TARUN BHATIA @ CHEENU

.....Petitioner

Versus

STATE OF PUNJAB

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Gautam Dutt, Advocate,
Mr. Hunarveer Sharma, Advocate and
Mr. Karan Pathak, Advocate for the petitioner.

Mr. Athar Ahmed, DAG, Punjab.

HARKESH MANUJA, J. (ORAL)

1. By way of present petition filed under Section 439 CrPC, prayer has been made for grant of regular bail in case FIR No. 91 dated 11.07.2023 registered under Sections 21/61/85 of Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station Sarabha Nagar, District Ludhiana wherein, petitioner has been implicated with the allegations of recovery of two envelopes containing 149 strips of Tramadol capsule IP Tramanam 50 Mg (10 tablets each) i.e. 1490 tablets and 32 strips of Proxywel Spas (8 tablets each) i.e. 256 tablets respectively.
2. While referring to the FSL report (Annexure P-5, page 17), learned counsel for the petitioner submits that as per the same, envelope No.1 contains 10 capsules packed in one strip labeled as Tramanam 50 mg with no batch number, manufacturing date or expiry date, whereas envelope No.2 contains 8 capsules of blue colour packed in one strip with clear batch number, manufacturing date as well as date of expiry. Learned counsel for the petitioner further submits that once

there was no batch number, manufacturing date or expiry date relating to 149 strips containing 10 tablets each forming part of envelope No.1, the entire lot of 1490 tablets of Tramanam 50 mg could not have been taken against him, the sample being not representative one and thus, the recovery being of non-commercial quantity with the conclusion of investigation besides custody of petitioner being 7 months, he deserves the concession of regular bail.

3. On the other hand, the prayer made herein has been vehemently opposed at the instance of learned State counsel while referring to the huge recovery involved in case in hand which is of commercial quantity besides involvement of petitioner in one more case of NDPS though pertaining to non-commercial quantity.

4. I have heard learned counsel for the parties and gone through the paper book. I find substance in the submissions made on behalf of the petitioner.

5. Before considering merits it would be appropriate to refer to FSL report and the relevant portion thereof is reproduced hereunder:-

“On opening the envelopes 1 and 2 were found to contain the following:

Envelope 1: Ten (10) capsules of green colour packed in one strip; strip was labelled as TRAMANAM 50 Mg bearing B.no., Mfg dt, exp dt (Not mentioned) and Mfd by Pure & Cure Healthcare Pvt Ltd.

Average weight:339 mg/capsule

Envelope 2: Eight (08) capsules of blue colour packed in one strip; strip was labeled as PROXYWEL SPAS bearing B.No. PCCIH163, Mfg dt 03/2022, exp dt 02/2024, Mfd by Pure & Cure Healthcare Pvt. Ltd.

Average weight 536 mg/capsule”

Once the envelope No.1 containing 149 strips of 10 tablets each i.e. 1490 tablets of Tramanam 50 mg did not contain any batch

Number, manufacturing date and expiry date, in the humble opinion of this Court, there is merit in the contention raised on behalf of the petitioner that the entire recovery of 1490 tablets of Tramanam 50 mg cannot be relied upon against him especially the sample forming envelope No.1 not being representative one with no batch number, manufacturing date or even the expiry date. Even if the quantity mentioned in envelope No.1 along with the entire quantity of envelope No.2 is taken cumulatively, the total would still be non-commercial quantity against which the investigation already stands concluded with the filing of challan. Moreover, the petitioner is behind the bars for a period of 7 months by now and even charges have also been framed on 23.10.2023, however, so far none of the prosecution witnesses has been examined, as such, this Court does not find justification to extend his incarceration any further especially when the other involvement of petitioner is of non-commercial quantity wherein he is already on bail.

6. In view of the above, without commenting anything on the merits, lest it may prejudice the case of either side, the present petition is allowed and the petitioner is ordered to be released on regular bail on his furnishing adequate bail/surety bonds to the satisfaction of the concerned learned trial Court/Duty Magistrate.

01.03.2024
Tejwinder

(HARKESH MANUJA)
JUDGE

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