

223

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-14396-2024 (O&M)
Date of Decision:- 17.12.2024

SARWAN SINGH @ GABBAR

....Petitioner(s)

Versus

STATE OF PUNJAB

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJIV BERRY

Present : Mr. L.S. Mann, Advocate for the petitioner.
Mr. Ankit Grewal, DAG Punjab.

SANJIV BERRY, J. (ORAL)

1. ASI Surender Singh, Investigating Officer of the case is present in Court and has supplied the custody certificate of the petitioner dated 16.12.2024, which is taken on record. Copy thereof has been supplied to learned counsel for the petitioner.
2. Arguments heard.
3. The instant petition has been preferred by the petitioner under Section 439 Cr.P.C. for grant of regular bail to the petitioner in the following case :-

FIR No.	Dated	Sections	Police Station
92	14.10.2023	22 of the NDPS Act	Ladhuwal, District Police Commissionerate Ludhiana

4. Learned counsel for the petitioner *inter alia* contents that the petitioner is innocent and has been falsely implicated in this case. He has



referred to the FIR (Annexure P-1) to submit that as per the same, the recovery allegedly affected from the petitioner, although denied by him, happens to be 160 strips, each containing 10 tablets, totalling 1600 tablets, of *“Alprazolam Tablets IP 0.5 mg, branded as Alprasafe-0.5, on which Plenteous Pharmaceuticals Limited, B-4&5 Laxmi Tower, LSC Block-C, Saraswati Vihar, Delhi-110034 (India) having manufacturing Licence No.31/UA/2013, Batch No.PCCAA665, Manufacturing Date 07/2020, Expiry Date 06/2023”* was written. He submits that the petitioner was arrested on 14.10.2023 and after the completion of investigation, chalan was presented in Court, and as per the FSL report, (Annexure P-3), the said tablets were mentioned as *“manufactured by Pure and Cure Healthcare Private Limited”*. He contends that this discrepancy is fatal to the case of the prosecution, and as such prays for grant of bail to the petitioner.

5. On the other hand, learned State counsel on instructions from ASI Surender Singh, Investigating Officer of the case present in Court and while referring to the short reply submitted by the State, has assailed the arguments advanced by learned counsel for the petitioner by submitting that firstly, the recovery effected from the petitioner falls within the purview of commercial quantity, and as such, he is not entitled to the concession of bail by virtue of provision under Section 37 of the NDPS Act. He has placed on record the photocopy of the strip allegedly recovered from the petitioner to submit that there is no discrepancy in the recovered tablets and those regarding which the FSL report (Annexure P-3) has been submitted. He further submits that the confusion arose only because of the fact that on the



strip, it was mentioned as “*manufactured by Pure and Cure Healthcare Private Limited*” and “*marketed by Plenteous Pharmaceuticals limited*” and the same is mentioned in the FSL report as “*manufactured by Pure and Cure Healthcare Private Limited*”. He further submits that even otherwise, the particulars of the medicine itself i.e. content, batch number, manufacturing date, expiry date are the same as has been mentioned in the FIR and recovered from the petitioner. He contends that the FSL report referred to by learned counsel for the petitioner pertains to the same tablets which were recovered from the possession of the petitioner when apprehended by the police and also mentioned in the FIR along with its batch number, manufacturing date, expiry date, and other particulars, hence, prayed for dismissal of the petition.

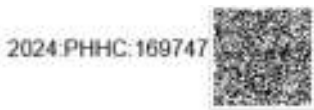
6. After considering the rival contentions and perusing the record, it transpires that as per the case of prosecution, the petitioner, who was coming on foot, carrying a transparent polythene bag in his hand and on seeing the police party, got perplexed and threw the polythene bag and tried to run away, was apprehended by the police party patrolling in the area. As per the police version, on the apprehension of the petitioner, his particulars were inquired and subsequently, the search was conducted in accordance with law, leading to recovery of 160 strips, each containing 10 tablets, totalling 1600 tablets, of Alprazolam Tablets IP 0.5 mg, branded as Alprasafe-0.5, Plenteous Pharmaceuticals Limited, B-4 & 5 Laxmi Tower, LSC Block-C, Saraswati Vihar, Delhi-110034 (India) manufacturing Licence No.31/UA/2013, Batch No.PCCAA665, Manufacturing Date



07/2020, Expiry Date 06/2023. Consequently, the petitioner was arrested and after the completion of investigation, chalan was presented.

7. So far as the contention raised by learned counsel for the petitioner regarding the discrepancy in the FIR and the report of FSL is concerned, the same does not create any dent in the case of prosecution in any manner. A perusal of the photocopy of the strip, recovered from the petitioner, produced by the Investigating Officer of the case, would reveal that the tablet Alprafase-0.5 containing Alprazolam IP 0.5mg was manufactured by Pure and Cure Healthcare Private Limited and marketed by Plenteous Pharmaceuticals Limited. No doubt, in the FIR, there is mention of Plenteous Pharmaceuticals Limited being the manufacturer, while in the FSL report, it is Pure and Cure Healthcare Private Limited. This apart, the details of the tablets recovered from the petitioner, as mentioned in the FIR, tally with the report of FSL in minor details, such as batch number, date of manufacturing and date of expiry and also the contents thereof. This at the most can be termed as a clerical error or irregularity, which does not in any manner create doubt in the version of the prosecution, so as to infer the tablets recovered from the petitioner being different from that mentioned in the FSL report, as claimed by learned counsel for the petitioner. The arguments so advanced by learned counsel for the petitioner appears to be having no merit therein and is misconceived one.

8. Even otherwise, it is not disputed that the narcotic content of the recovery effected from the petitioner in the form of 1600 tablets of Alprafase-0.5 containing Alprazolam IP 0.5mg falls within the purview of



commercial quantity and as such hit by the provisions of Section 37 of the NDPS Act.

9. As a sequel to the above discussion, finding no merit in the case of petitioner, the present petition seeking regular bail is hereby dismissed.

10. Any observation made above shall not be construed as opinion of this Court on the merits of the case.

(SANJIV BERRY)
JUDGE

17.12.2024

S.Sharma(syr)

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