

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

103

CRM-M-23466-2024
Date of decision: 27.05.2024

KAMAL KRISHANPetitioner

Versus

STATE OF PUNJAB ...Respondent

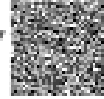
CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. Sherry K. Singla, Advocate
for the petitioner.

Mr. Pardeep Bajaj, DAG, Punjab.

KULDEEP TIWARI. J.(Oral)

1. Through the instant petition, as instituted under Section 438 of the Cr.P.C., the petitioner seeks the concession of anticipatory bail, in case FIR No.0094 dated 09.03.2024, under Sections 22/29/61/85 of the N.D.P.S. Act, registered at Police Station City Barnala, District Barnala (Annexure P-1).
2. Learned counsel for the petitioner in his asking for the relief (supra), submits that except the disclose statement of the co-accused, there is nothing on record, to connect the present petitioner with the alleged crime. Learned counsel for the petitioner further submits that petitioner is not involved in any other criminal case. Learned counsel for the petitioner places reliance upon Annexure P-3, i.e. the wholesale drug licence, and submits that the petitioner is an

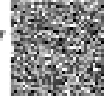


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authorized dealer of drugs and cosmetics (medical/chemist shop).

3. As per prosecution, the instant FIR was initially registered against Vijay Kumar, Raju Singh, Darshan Singh @ Vicky, and Jaswinder Singh @ Binder. The brief facts of the case are that the Police party headed by ASI Malkit Singh, along with printer, Laptop, and investigating kit, was present near Prem Pradhan Market, Barnala on government vehicle No. PB-12-G-7422, in connection with patrolling and checking of suspected persons, then special informer came there, and informed that Vijay Kumar son of Om Parkash, Raju Singh son of Karam Singh, Darshan Singh @ Vicky, in connivance have purchased the intoxicant tablets from one Jaswinder Singh @ Binder, son of Jagga resident of Barnala City, and they are further selling the said intoxicant tablets, to other persons in the area of Barnala City. The said Jaswinder Singh, had visited Barnala to sell the intoxicant tablets to all of them namely Vijay Kumar, Raju and Darshan Singh @ Vicky. Said Vijay Kumar, Raju and Darshan Singh @ Vicky are waiting for Jaswinder Singh @ Binder, under the shed installed in grain market, Barnala. In case a raid is conducted, then all of them can be apprehended red handed, and a huge quantity of intoxicant tablets can be recovered from them. On the basis of said information, ASI Malkit Singh, sent a ruqa to the police station concerned, and got registered the present case. ASI Malkit Singh also issued report u/s 42(2) of NDPS Act.

4. On the basis of the above information, a raid was conducted by the Police party. On seeing the Police party, all the accused persons had thrown the articles which were in their hands, in a plastic polythene. After making statutory compliance of Section 50 of the NDPS Act, the search was conducted, and on checking of the polythene, 410 loose tablets were recovered. As per the FSL



report, the average weight of the recovered tablets was 128 mg/tablet, and etizolam salt was found from it, and the total weight of said 410 tablets is 52.48 grams. As per provisions of NDPS Act, 2.5 grams Etizolam, falls within the provision of commercial quantity, therefore, the alleged recovery from the co-accused is of huge commercial quantity.

5. During investigation, as carried out by the Police officials, on the disclosure statement of Jaswinder Singh, Manpreet Singh @ Mani, and Sonu c/o Shiv Medical Hall, were nominated as an accused on 11.03.2024, vide DDR No.35.

6. This Court has heard the submissions as made by learned counsel for the parties concerned, and is of the view that the petitioner does not deserve the extra-ordinary relief of the pre-arrest bail, since the recovery effected from the co-accused falls within the ambit of huge 'commercial quantity'. So far as the issue, that the petitioner is authorized to keep the drug is concerned, that is a misplaced argument, as a huge quantity of contraband without any prescription cannot be transferred to the other co-accused persons, in case even if the argument of learned counsel for the petitioner is to be considered, there is no such prescription, or sale record produced by the petitioner to substantiate that he in compliance to the norms/instructions of the Drugs and Cosmetics Act, has sold the said tablets, and that too in a loose polythene bag, to the co-accused.

7. So far as the next argument of learned counsel for the petitioner, that disclosure of co-accused has no value in the eyes of law, cannot be considered at the time of grant of pre-arrest bail, as investigation *qua* the petitioner is yet to be completed. This Court can place reliance upon the judgment passed by the Hon'ble Apex Court in *State of Haryana Vs. Samarth Kumar, 2022 (3) RCR*

(Criminal) 991.

8. In view of the above, the instant petition is ordered to be **dismissed**.

27.05.2024
amandeep

(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned. : Yes/No
Whether Reportable. : Yes/No