



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

238

CRM-M-26139-2024
Date of decision: July 22nd, 2024

Pratap

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Ramaswami Balaji, Advocate
for the petitioner.

Mr. Gagandeep Singh Chhina, Assistant Advocate General,
Haryana.

MANJARI NEHRU KAUL, J.

Petitioner is seeking the concession of bail under Section 439 of the Code of Criminal Procedure, 1973 in case FIR No.168 dated 05.03.2023 under Sections 22C, 29 of the NDPS Act and Sections 467, 468, 471, 420, 201 of the IPC registered at Police Station Camp Palwal.

2. Learned counsel for the petitioner submits that he has been falsely implicated in the present case, which is obvious from the fact that he was neither named in the FIR in question nor any role had been assigned to him; rather, he had been roped in the present case only on the basis of a disclosure statement made by the prime accused. Learned counsel has further submitted that the petitioner's false implication is also evident from the fact that the FIR in question came to be registered on 05.03.2023 and he was arrested in the instant case after nine months of the recording of the disclosure statement. It has been asserted that the petitioner has been implicated only because he refused to succumb to pressure and threats of the police and pay them illegal

gratification. A prayer has, therefore, been made that in the aforementioned facts and circumstances, since the charges have not yet been framed even though challan was presented on 27.02.2024, his further incarceration would serve no useful purpose as the trial would take considerable time to conclude.

3. *Per contra*, learned State counsel while controverting the prayer and submissions made by the counsel opposite, has on instructions, submitted that no doubt, the petitioner's name surfaced in the disclosure statement of main accused Pankaj and Rajesh, however, the petitioner is the supplier of the material, which had been used by co-accused Pankaj Singla and Rajesh for manufacture and packing of the contraband i.e. Wings ONEREX cough syrup, in the absence of any authorization in the said regard. It has also been submitted that a huge recovery i.e. 14 kilograms, 250 grams of the said cough syrup was affected, whereas the commercial quantity of Phenobarbital (one of the substances present in the samples sent to the FSL) was 500 grams. It has also been submitted that the petitioner is a man of criminal antecedents and is a habitual offender. He is involved in one more case under the NDPS Act in the State of Telangana, thereby disentitling him to the concession of regular bail, more so at this early stage of the trial when the charges have also not yet been framed.

4. I have heard learned counsel for the parties and perused the relevant material on record.

5. The FIR, which has been annexed as Annexure P-1, came to be registered on the basis of a secret information. The relevant part of the FIR is extracted as under:-

"Today on 04.03.2023, 1, SI Kimtilal no. 1862/FBD,

HSNCB, UNIT Faridabad, along with fellow officials constable Nandkishor no. 2220/FBD, constable Deepak 5/699/HAP, constable Manjeet no. 124/NNL with his laptop and printer and Govt. vehicle no. HR-05GV-2318, driver constable Deepak Kumar no. 4492/GGM was present at HUDA Chowk Palwal Flyover for patrolling of drug prevention that a secret informant met and informed me that Rajesh son of Mahesh Chand and Pankaj son of Balkishan had establish a factory for manufacturing intoxicated medicine corex syrup, in a house at its 1 floor, in Khayali Enclave Lakki Ka Nangla in a Gali ahead of Dharam Public School in which the work is going on at this time and if a raid is conducted immediately then can be apprehended along with manufacturing of corex syrup intoxicated medicines. That believing the information true, SI Kimtilal prepared a notice U/s 42 NDPS Act and Ct. Deepak no. 5/699 HAP was sent to P.S Camp Palwal to enter in Daily Diary and to inform the higher officials about the intoxicated substance and Sh. Sandeep Gehlan DCO Palwal was informed about the incident over his mobile no. 8510021516 and requested to come, that after some time, constable Deepak no. 5/699 HAP came present on the spot after getting Rapat no. 15 dated 04.03.2023 of notice U/s 42 NDPS Act, entered in P.S. Camp Palwal. That after waiting a long at about 5:05 p.m., Sh. Sandeep Gehlan DCO Palwal and Sh. Karan Singh Godara SDCO Faridabad Zone after receiving the information came present at HUDA Chowk Palwal. That a raiding party was got prepared and independent passerby were informed about the information and were invited to join raiding party as independent witnesses, but everyone left from there after citing their own legal compulsion. That SI Kimtilal told about the secret information to fellow officials, along with the secret informant and taking with Sh. Sandeep Gehlan, DCO Palwal, and Karan Singh Godara SDCO Faridabad Zone in the Govt. vehicle reached at Khayali Enclave Lakki Ka Nangla Gali ahead of Ice Factory, where the secret informant signaled towards a house and told that upper of this house illegal intoxicating medicines are being made. By releasing the informant there, reached at 1 floor of workshop made under the part of the house. At 1" floor, Tin shed and on its back side 2 rooms were there, where two persons were found packing illegally intoxicating medicines i.c. Wings (ONEREX) cough syrup. SI Kimtilal with the help of fellow officials apprehending the accused SI Kimtilal gave his and his team's introduction to them and asked them their names and addresses then the first person told his name and address as Pankaj Singla son of Balkishan, resident of village Pinangwa, Ward no. 9, Near Lal Das

Mandir, Distt. Nuh, aged about 33 years and second person told his name Rajesh Kumar son of Mahesh Chand, resident of Pinangwa, Ward no. 9, Near Lal Das Mandir, Distt. Nuh, aged about 42 years. That Sh. Sandeep Gehlan DCO Palwal under Form no. 16 and 17 took into his custody of recovered samples etc. of intoxicating medicines (syrup) and balance left recovered following intoxicating medicines (syrup) and material used in manufacturing intoxicating medicines were handed over to SI Kimtilal, which is as under:-

Sr. No. Drug/Object Quantity Remarks

1 Chlorpheniramine Maleate Codeine Phosphate Syrup (OnerexTM CC), B. No. 1886, M/d, Jan 2023, E/d Dec. 2024, labelled as Manufactured by M/s Wings Biotech LLP, 43 44, HPSIDC Industrial Area, Baddi-173205 (HP) 23 x 4 x 30 x 100 ml
1 x 3 x 30 x 100 ml

(Total 2850 bottles) Containing Codeine Phosphate as active ingredients, which is listed at Sr. No.28 In the NDPS notification

2 Bulk Syrup in plastic can 14.250 kg gross weight with can Syrup ready for filling and packing

3 Empty pet bottles 6 x 104-624

4 Aluminium Cap printed with 'wings' on top Approx. 950

5 Sticker label roll (Partially used found installed on sticker labelling machine) of above-mentioned product One partially used roll (Approx. 400 stickers)

6 Sticker labelling/pasting machine one

7 Cap sealing machine two

8 Electronic weighing balance one

9 LPG Gas cylinder with stove one

10 Patila with lid and palta One each

That all 24 cardboard boxes intoxicated medicines (syrup) marka ONEREX and 1 cane ready syrup total weight 14 KG 250 gm. with cane and sticker label roll marka ONEREX and 624 empty bottles cardboard boxes and empty cap of bottles were taken in a plastic box, preparing separate bundles (pulandas) Sh. Sandeep Gehlan DCO Palwal and Sh. Karan Singh Godara SDCO FARIDABAD ZONE and the accused and the witnesses put their own signatures. That license for illegally manufacturing, keeping and selling was demanded from the said accused Pankaj Singh and Rajesh Kumar by Sh. Sandeep Gehlan DCO Palwal then the said accused Pankaj Singla and Rajesh Kumar neither could produce any license nor could gave any satisfactory reply. That Sh Sandeep Gehlan DCO Palwal, directed to register the case on the said action taken under Sections 21C NDPS Act AND 18(c)/27(b)(ii), 18(a)(i)/27(c) Read With

17,17A,17B & 18A/28 DRUGS AND COSMETICS ACT, 1940 AND 467,468,471,420 IPC accordingly. Therefore, these contents have been written through laptop and a print was taken from the printer and is being sent to P.S. Camp Palwal, through constable Deepak 5/699/HAP. Kindly register a case and inform me the case no. Also an investigating officer for further investigation in this case may also be appointed and be sent at the spot. Also as per the procedure, a special report for higher officials be sent. I am present with other officials and the accused and case material recovered from the accused and its bundles (pulandas) at the spot.”

6. *Prime facie*, on the basis of the evidence collected so far, there are serious and grave allegations against the petitioner of being the supplier of material which was then used to manufacture the contraband. This Court would, therefore, be not inclined to extend the concession of bail to the petitioner.
7. The instant petition stands dismissed.
8. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

July 22nd, 2024
Puneet

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No