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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-34600-2024
DATE OF DECISION: 22.07.2024

SURAJ MAL ALIAS MONU ...PETITIONER

Versus

STATE OF HARYANA ... RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Mandeep Nehra, Advocate for the petitioner(s).

Mr. B.S.Virk, Sr. DAG, Haryana.

SANDEEP MOUDGIL, J (ORAL)

1. The jurisdiction of this Court has been invoked under Section 438 of Cr.P.C., for grant of anticipatory bail in case FIR No.172 dated 09.05.2024 registered under Section 21-C The Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station Bilaspur, District Yamuna Nagar.

2. The above-mentioned FIR is reproduced below :-

*‘Sir, The contents of the writing is as follows.
To, Station House Officer, Police Station Bilaspur, District Yamuna Nagar. Jai Hind. Today I, SI Satish Kumar No. 334/A, HC Jasmer Singh No. 701/YNR, HC Jagpal Singh No. 380/YNR, Constable Ravi Kumar No. 236, HGH Alim Ali No. 217 on government vehicle No. HR02 GV-9756 the driver of which is HKRN Mukesh Kumar along with Laptop and Printer and I/O Kit in regard to patrol duty and protection of crime at 09.10*



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P.M. am present at the Bus Stand in the area of village Rampur Hedian that special informer appeared before me SI and informed a secret information that Jaiky Rana alias Joginder son of Subhash is a resident of village Fatehpur Police Station Mirzapur District Saharanpur Uttar Pradesh and is doing the business of selling intoxicant Tablets and Capsules, who today also in village Nagli-264 is standing to sell intoxicant Tablets to some customer by walking. In case immediate raid be conducted then aforesaid Jaiky Rana alias Joginder can be nabbed along with intoxicant drugs. That on finding the information authentic and believable, I, SI through my personal Mobile No. 9466789986 at 09.20 PM informed Sh. Kanwaljit Singh HPS Deputy Superintendent of Police, Head Office Yamunanagar at their Mobile No. 8818000104 and I, SI after prepared a Notice Under Section 42 NDPS Act send Constable Ravi Kumar No. 236/YNR at 09.30 PM at their residence at Police Line Yamuna Nagar to inform and to register the DDR of informers information at 09.40 PM Ruqa has been send at Police Station through HGH Alim Ali No. 217. That I, SI, requested the passer bys at the spot to join the raiding party as witness, but all the persons after shown their difficulty left the spot and then I, SI along with companion employees prepared a raiding party along with Special Informer on government vehicle as per the place informed by the special informer at 10.00 PM reached in the area of village Nagli-264 near Gugga Mari. That the special informer sitting in the government vehicle after pointed towards a boy standing on the Katcha path of village Nagli-264 and told that the boy who is seen standing in front the same is Jaiky Rana, the black color polythene plastic which is seen holding in his right hand, in the same intoxicant drugs are lying and the Special Informer at the same time after got stopped the vehicle left the spot and I, SI at once got stopped the vehicle near that boy, who at once finding the police in front of him tried to turn



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back, to whom, I, SI with the help of companion employees nabbed that boy and asked his name and address, who disclosed his Name and address to me SI as Jaiky Rana alias Joginder son of Subhash resident of village Fatehpur Police Station Mirzapur District Saharanpur Uttar Pradesh and to whom I, SI prepared Notice Under Section 50 NDPS Act and read over to him and after supplied him asked that the black color polythene plastic which is in your possession I have doubt that there is some intoxicant drugs. You have a legal right that if you wants to get your search through some Magistrate or Gazetted Officer, time is being given to you to think. Who after read the notice after thorough thinking gave his consent to me SI that he wants to get her search through some Gazetted Officer and thereafter, I, SI, at 10.20 PM through my Mobile Phone No. 9466789986 contacted the Gazetted Officer Sh. Kuldeep Singh Naib Tehsildar Sadhaura at his Mobile No. 9896552519 after disclosed the facts, requested him to come at the spot, who on my SI request gave his consent for reaching at the spot. That Gazetted Officer Sh. Kuldeep Singh Naib Tehsildar Sadhaura in his Car No. HR71-GV-4606 Mark Bolero white color along with staff reached at the spot at 10.45. That I, S.I. produced Notice Under Section 50 NDPS Act and consent memo and aforesaid accused Jaiky Rana and witnesses before Gazetted Officer. That the Gazetted Officer after apprised his identity to aforesaid accused Jaiky Rana has marked SEEN the Notice Under Section 50 NDPS Act and Consent memo and separately enquired from the witnesses and the Gazetted Officer as per rule conducted the personal search of me SI. That from my SI's personal search article has been recovered, the personal search memo of employee has been prepared, the witnesses have put their signature on the memo and the personal search memo of employee has been attested by Gazetted Officer. Thereafter, the Gazetted Officer in his presence has ordered to conduct the



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search o black color polythene plastic holding in his right hand by accused Jaiky Rana alias Joginder son of Subhash resident of village Fatehpur Police Station Mirzapur District Saharanput Uttar Pradesh. According to his order, I, SI has searched the black color polythene Plastic holding in his right hand by accused Jaiky Rana alias Joginder, out of which total 120 strips of intoxicant banned Capsules have been recovered in each strip containing 8 Capsules on the strips Dicyclomine Hydrochloride, Trammadol Hydrochloride Acetaminophen Capsules in English is written Batch No. C-240404, MFG DATE APR 2024, EXP DATE MAR, 2026 MRP RS.76.00 PER 8 CAPS, INCL. ALL TAXES, that total 960 Capsules are recovered Mfg mktd by. Soul Healthcare (1) Private Limited (AN ISO 9001- 2015 G.M.P., GLP Certified Company) 7th Km Jaspur Road, Kashipur-244 713 (U.K.) and mfg Lic No. 43/UA/2007 has been found. That at 11.14 PM, I, SI contacted Smt. Bindu Dhiman Drug Control Officer Yamuna Nagar at her Mobile Phone No. 8814972716 after disclosed the circumstances, requested her to reach at the spot. That Smt. Bindu Dhiman Drug Control Officer Yamuna Nagar said to me SI to click the Photo of recovered Capsules along with written application and sent the same on her Whatsapp. That I, SI on my Whatsapp Number 9466789986 after clocked the photo of recovered Capsules and a Photo of application sent the same on whatsapp No. 8814972716 of Smt. Bindu Dhiman Drug Control Officer Yamuna Nagar and it is also written in the application to give her opinion that whether the same falls in NDPS Act Category SI not. Thereafter, I, after separated 8 Capsules out of the recovered Intoxicant Capsules, through Electronic Scale weighed the Capsules on weighing the weight of 8 Capsules came to 4.65 Gram and total weight of recovered 960 Capsules came to 558 gram, while weighing the same through Electronic Scale I, SI clicked the photo through my personal Mobile. That after got prepared the photographs the



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same would be attached. I, SI after put recovered banned intoxicant Capsules in the same polythene plastic black color prepared separate parcel of cloth and I, SI parcel of case property sealed with my 3 seals bearing impression RK and Gazetted Officer has sealed with his 1 seal bearing impression VP and separate sample seal has been prepared. I, SI after used my seal handed over to HC Jasmer Singh No. 701/YNR and the Gazetted Officer after used his seal kept with him. That the parcel of banned intoxicant Capsules has been taken into police possession as evidence through memo. On the recovery memo the accused and witnesses have put their signatures and the Gazetted Officer has attested the recovery memo and then I, SI conducted personal search of aforesaid accused Jaiky Rana alias Joginder. That out of the left pocket of the Congo brown color Jean wearing by the accused one Mobile Phone REALME Mark color Blue IMEI NO. 862059054337939 IMEI NO. 862059054337921 along with SIM Number 9548377605 which is UNLOCK has been recovered which after put into a white color cloth prepared a parcel and taken into police possession, personal search memo of accused has been prepared, on the same accused and witnesses have put their signature and the Gazetted Officer has Attested the personal search memo. That at 11.31 P.M. Smt. Bindu Dhiman Drug Control Officer Yamuna Nagar in regard to the above mentioned recovered Capsules has sent her report in writing on Whatsapp which is as follows, "The drugs mentioned at serial No. A, as per label claim contains TRAMADOL which falls under NDPS category at Serial No. 238-ZH, in the table as per NDPS Act, 1985." SD: BINDU DHIMAN DRUG CONTROL OFFICER FDA, Yamuna Nagar-11. That accused Jaiky Rana alias Joginder son of Subhash resident of village Fatehpur Police Station Mirzapur District Saharanpur Uttar Pradesh by keeping without License and Permit banned intoxicant 960 Capsules in his possession has



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committed prima facie offence under Section 22-C NDPS Act. Hence, present writing has been scribed and the same is being sent to Police Station for registration of case through HC Jagpal No. 380/YNR. After registered the case, case number be informed and the special report of the present case be forwarded to concerned senior officers. The In-charge of Police Post Ranjitpur has been informed through Mobile Phone to sent some other Investigating Officer at the spot for further investigation.. I, SI am busy in investigation at the spot. Present in the area of Village Nagli-264 near Gugga Mari Police Station Bilaspur. Sd/- Satish Kumar SI dated 08.05.2024 At 11.50 P.M. '

3. Learned counsel for the petitioner submits that the petitioner has been nominated only on the basis of the disclosure statement made by co-accused-Jacky Rana alias Joginder and the petitioner was booked for offence under Section 29 of the NDPS Act. He asserts that no recovery has been effected from the petitioner and at his instance, except one plastic polythene bag was recovered from Jacky Rana @ Joginder containing 960 capsules of Dicyclomine Hydrochloride Tramadol Hydrochloride Acetaminophen Capsules weighing 558 grams.

4. Notice of motion.

5. On the asking of Court, learned State Counsel appearing on advance notice, accepts notice on behalf of respondent-State and on instructions from ASI Lakhwinder Singh is not in a position to controvert the submissions made by counsel for the petitioner. There is



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no incriminating material produced by learned State Counsel against the petitioner to connect the petitioner with the incident.

6. In light of the above and after having heard the learned counsel for the parties, and keeping in view facts that no specific role has been attributed to the petitioner, he has been nominated only on the basis of disclosure statement made by co-accused and the petitioner has clean antecedents, this Court finds no reason to deny the petitioner the concession of anticipatory bail if the petitioner has bona fide intentions and is willing to join the investigation and cooperate for furtherance of the same so that the final report can be submitted by the Investigating Agency within time.

7. Hence, in view of the admitted set of circumstances before this Court, the petitioner is directed to be released on anticipatory bail subject to his joining investigation and reporting to the Investigating Officer concerned within a period of one week from today, on furnishing of personal/surety bonds to the satisfaction of Arresting/Investigating Officer. The petitioner shall also abide by the terms and conditions as envisaged under Section 438(2) of Cr.P.C.

8. However, it is made clear that in case the petitioner does not comply with the aforesaid direction of joining the investigation within one week, the order passed by this Court today shall automatically stands cancelled.

9. The petition in the aforesaid terms stands allowed.

(SANDEEP MOUDGIL)
JUDGE

22.07.2024
anuradha

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