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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-48099-2024

Date of Decision:- 07.11.2024

Shishu Pal

...Petitioner

Vs.

State of Punjab

...Respondent

CORAM:-HON'BLE MRS. JUSTICE AMARJOT BHATTI

Present:- Mr. Preetinder Singh Ahluwalia, Advocate and
Mr. R.S. Aulakh, Advocate
for the petitioner.

Mr. Gautam Thapar, AAG, Punjab.

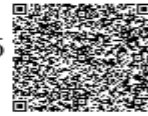
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AMARJOT BHATTI, J.

1. Petitioner – Shishu Pal has filed petition under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 for grant of regular bail in FIR No. 325 dated 30.06.2024 (Annexure P/1), under Sections 188, 420, 120-B of IPC (offence under Sections 467, 468, 471 IPC were added later on), registered at Police Station City Barnala, District Barnala.
2. As per the facts of case, on 30.06.2024 ASI Ranjit Singh and police party was on routine patrolling when at about 01:30 PM, he received secret information regarding accused Shishu Pal and others detailed in FIR that they were indulging in manufacturing of fake medicines besides manufacturing of licensed medicines such as Pregabalin-300 MG, which was prohibited medicine in District Barnala without Government's approval and they were also making some other illegal medicines and

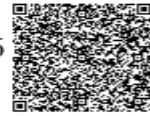
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selling the same without bills, thus causing heavy financial loss to Government. It was further informed that on that day they were loading illegal medicines in large quantity in Mahindra Pickup bearing registration No. PB-65-AZ-9437 and if raid is conducted in premises of Alzan Pharmaceuticals Private Limited, Naiwala Road, Barnala, then huge recovery could be effected. On the basis of this information, rukka was sent to police station for registration of FIR. Drug Control Officer, District Barnala was apprised about the facts and circumstances of case with request to reach on the spot. Thereafter, raid was conducted. One Mahindra Pickup vehicle loaded with medicines was parked near main gate of factory. One person was standing nearby who disclosed his name as Sukhraj Singh. On seeing police party, three persons came namely Shishu Pal, Dinesh Bansal and Lovekush Yadav. They were made aware about the facts of case and were arrested. Investigation was carried out on the spot. Smt. Navjot Kaur, ZLA (Zonal Licensing Authority), Sangrur Zone alongwith her team also reached on the spot. DVRs installed in factory premises were taken into police custody. Drug team had taken over said Mahindra Pickup vehicle loaded with medicines and from inside the factory, 95060 capsule of Pregabalin-300 MG and other material were recovered and taken into possession as per rules. Value of medicines recovered was of ₹1.16 crore. It was revealed that forged rubber stamps with forged batch numbers affixed on medicines were taken into police possession. Firm making Pregabalin capsule is registered at Kandwal Lodhwan Road, Tehsil Nurpur, Kangra, Himachal Pradesh, whereas, said

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capsules were being manufactured in a concealed manner in the firm at Naiwala Road, Barnala. Drugs Control Officer, Barnala undertook separate proceedings and case property was taken over by them. Investigation was completed and thereafter, challan is also presented in Court.

3. Learned counsel for petitioner argued that for the sake of arguments even if allegations of prosecution are considered, it is a case of offence falling under Section 18(c) of Drugs and Cosmetics Act, 1940. Office of Drugs and Control Officer, Barnala has already initiated proceedings and notice is already received, which is Annexure P-2. In-fact, petitioner is being prosecuted under two separate sets of proceedings i.e. proceedings initiated under Drugs and Cosmetics Act and other proceedings initiated in aforesaid FIR. Learned counsel for petitioner referred to the provisions of Section 32 of the Drugs and Cosmetics Act, 1940, making it clear that there is a specific bar on registration of FIR for the offence punishable under Drugs and Cosmetics Act, 1940. Learned counsel for petitioner has referred to the judgment of Coordinate Bench passed in ***CRM-M-9125 of 2021*** titled “**Vineet Bhagat Vs. State of Haryana and anr.**” with connected case, decided on 17.02.2023, where in a similar situation, FIR registered for the offence falling within the purview of Drugs and Cosmetics Act, 1940 was quashed. On this point, he has relied upon other judgments also. It is argued that present petitioner is behind the bars since 30.06.2024. He is ready to abide by the terms of bail order. Therefore, regular bail petition filed by petitioner may be allowed.

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4. On the other hand, learned counsel representing State opposed regular bail petition filed by petitioner. Detailed status report has been filed giving detail of investigation carried out on the spot. It is confirmed that challan has been presented on 27.09.2024 and case is pending for consideration on charge. Present petitioner is claimed to be the main accused. However, he is not involved in any other FIR.

5. I have considered the arguments and have gone through the record carefully. It is matter of record that present petitioner was apprehended by police alongwith others on 30.06.2024 when ASI Ranjit Singh and police party alongwith Smt. Navjot Kaur, Zonal Licensing Authority, Sangrur alongwith her team conducted raid at the premises of Alzan Pharmaceuticals Private Limited, Naiwala Road, Barnala and recovered objectionable medicines loaded in a Mahindra Pickup as well as medicines and other manufacturing material lying in premises of said concern. It was alleged that said concern was manufacturing Pregabalin-300 MG drug which was prohibited and without valid permission and license manufacturing was carried out in a concealed manner. Learned counsel for petitioner has placed on record copy of challan report, Annexure P-11, which clearly indicates that proceedings in aforesaid FIR as well as proceedings under Drugs and Cosmetics Act are being carried out. There is copy of notice dated 10.09.2024, Annexure P-2, issued by Drugs Control Officer, Barnala addressed to M/s Alzan Pharmaceuticals Pvt. Ltd. and to its partners. So far as petitioner is concerned, he has already joined investigation and he is not required for any other purpose.



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Stand taken by learned counsel for petitioner that FIR could not be registered in the case in hand as the alleged offence is fully covered under the provisions of Drugs and Cosmetics Act, 1940, can be raised at appropriate stage. Petitioner is ready to abide by the terms of bail order. Therefore, present regular bail petition filed by petitioner – Shishu Pal is allowed. He is ordered to be released on bail on furnishing bail bonds and surety bonds to the satisfaction of trial Court/Duty Judge concerned.

6. Pending miscellaneous application(s), if any, stand disposed of accordingly as well.

07.11.2024
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(AMARJOT BHATTI)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No