

CRM-M-58818-2022 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(229)

CRM-M-58818-2022 (O&M)
Date of Decision:- 12.03.2024

Kishore Kumar

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE ALOK JAIN

Present: Mr. R.S. Mamli, Advocate
for the petitioner.

Mr. Brijesh Sharma, AAG, Haryana.

ALOK JAIN, J. (Oral)

1. The present 2nd petition has been filed *inter alia* praying for grant of regular bail to the petitioner in case FIR No.0513 dated 01.10.2020, under Sections 21 (c), 29, 61 and 85 of Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station Thanesar Sadar, District Kurukshetra (Annexure P-1).

2. At the outset, learned counsel for the petitioner has very fairly conceded to the issue raised by the learned State Counsel that there was a specific restriction in the pharma license *qua* the contraband which was found to be in the possession of the petitioner, however, has submitted on two grounds, which reads as under:

2.1 All the other co-accused have been granted the concession of bail by this Court and hence, claims parity.

2.2 The petitioner is in custody for last 02 years 07 months and 27 days (which is based on the custody certificate) and

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submits that the trial is not progressing and hence, prays for grant of regular bail to the petitioner.

3. Learned counsel for the petitioner further submits that the petitioner is identically placed with co-accused Jitender Singh, as the only difference is that 10,000 tablets were recovered from Jitender Singh whereas 75,000 tablets have been recovered from the petitioner, however, submits that it is yet to be ascertained whether they would fall under the ambit of commercial quantity or not. A Co-ordinate Bench of this Court in *CRM-M-2887-2021* while deciding the bail application of Jitender Singh recorded the prayer of the learned State counsel, who stated that the contraband recovered from co-accused Jitender Singh was commercial in nature.

4. Learned counsel for the petitioner also submits that, in fact, the petitioner was running a Chemist shop and on account of his said business, he had kept those tablets, however, the petitioner reasserts that even as per the FSL report, there is nothing coming forth that the quantity recovered is commercial in nature.

5. Heard learned counsel for the petitioner at length and considering the long incarceration of the petitioner, coupled with the fact that it is still uncertain as to whether the said quantity would fall under the commercial quantity or not and the fact that the trial is likely to take long time, therefore, no useful purpose would be served by keeping the petitioner in custody, hence, the petitioner is entitled to the grant of the concession of regular bail.

6. Without commenting upon the merits of the case, the present petition is allowed and the petitioner is ordered to be released on bail on his

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furnishing bail bonds and surety bonds to the satisfaction of the trial Court/Duty Magistrate, concerned. He shall, however, be released on the following conditions:

- i. The petitioner shall declare his ordinary place of residence and the mobile number used by him.
- ii. The petitioner will not switch off his mobile and in case of any technical glitch, he has to give an alternate number, which will be available in his absence.
- iii. The petitioner will mark his presence before the SHO concerned, after every 15 days and in case the SHO refuses to mark his presence, he is permitted to make an application before the Illaqa Magistrate, concerned.
- iv. The petitioner will not leave the country without the prior permission of the Court, for which he will submit the copy of his passport also.

The petitioner shall abide by the terms and conditions as imposed in addition to Section 439 of Cr.P.C.

7. It is made clear that, in case, the petitioner is found involved in any such activity once again, the State is at liberty to promptly move an appropriate application for cancellation of bail detailing out the circumstances and violation of conditions of bail

8. However, nothing stated above shall be construed as a final expression of opinion on the merits of the case.

9. However, it is made clear that this order shall not be construed as parity *qua* any other co-accused.

10. Pending miscellaneous application also stands disposed of.

(ALOK JAIN)
JUDGE

March 12, 2024
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