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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **BAIL APPLN. 3418/2023**

ANURAG KUMAR SINHA

.....Petitioner

Through: Mr. Karan Kapoor, Mr. Manik
Kapoor and Ms. Srishti Singla,
Advocates.

versus

STATE GOVT OF NCT OF DELHI

.....Respondent

Through: Mr. Amit Ahlawat, APP for the State
with Mr. Daljeet Singh, Advocate and
SI Prahlad, PS Special Cell/SWR.

CORAM:

HON'BLE MR. JUSTICE ANISH DAYAL

ORDER

18.11.2024

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1. This petition has been filed, seeking regular bail in FIR No. 374/2022, under Sections 22/29 NDPS Act, P.S. Special Cell, Delhi. As per nominal roll, petitioner has been in custody since 15th December 2022 and he was on interim bail from, 28th February 2023 to 07th March 2023. There are no allegations that the liberty was misused and there are no previous involvements, as regards the petitioner.
2. Case of the prosecution is based upon certain seizures of psychotropic substances, from accused Rishi Kumar Singh and Kuldeep Kumar, on 13th December 2022. On the basis of disclosure of the aforesaid accused, the petitioner was arrested on 15th December 2022.
3. On 16th December 2022, a joint raid was conducted at the office-cum-



godown, at the instance of the petitioner. The office was found stocked with medicines containing psychotropic substances. As per the seizure memo, the following were recovered:

(Recovery effected from the office cum go-down of the accused Anurag Kumar Sinha)					
Sr. no.	Product Description	Batch No.	Contents (Psychotropic substance)	No. of Cartons recovered	Total small boxes
1	Proxywel Spas	PCCIH292	Tramadol	4	227
2	Tramwel	PUUD43	Tramadol	1	50
3	Tramwel	PUUD42	Tramadol	1	18
4	Tramwel-Ultra	PCCJH14	Tramadol	1	12
5	Maverex Cough Syrup	TBHV1435	Codeine	1	146 bottles
6	Slepraz 0.5	WVBN12	Alprazolam	3	173
7	MEFAR-PD	PCCFV90	Tramadol	2	140

4. As per the prosecution, the petitioner could not produce any sale records, in respect of the purchases during the raid. He did produce some purchase invoices of the substances recovered from the joint possession of Rishi Kumar Singh and Kuldeep Kumar.

5. A comparative analysis of the recovery effected from Rishi Kumar Singh and Kuldeep Kumar, and that from the petitioner was done. The said tabulation is as under:



Comparative analysis of the recovery effected from accused Rishi Kumar Singh & Kuldeep Kumar (dtd.13/12/22) and recovery from the petitioner (dtd. 16/12/22) based on purchase invoices/records seized on the instance of petitioner.

Sr. No.	Product Description	Batch No.	Purchase (small box wise)	Total recovery from accused Rishi & Kuldeep (box wise)	Recovery from godown of applicant/accused (box wise)	Difference in quantity (box wise)
1	Alprasaft 0.5	PCCAA1020	300	200	Nil	100
2	Proxyband Spas	P07FA21	1013	180	Nil	833
3	Proxywel Spas	PCCIH292	840	360	227	253
4	Tramwel	PUUD43	50	Nil	50	Nil
5	Tramwel	PUUD42	100	Nil	18	82
6	Tramwel-Ultra	PCCJH14	64	Nil	12	52
7	Maverex Cough Syrup	TBHV1435	1800 bottles	Nil	146 bottles	1654 bottles
8	Slepraz 0.5	WVBN12	780	Nil	173	607
9	MEFAR-PD	PCCFV90	525	Nil	140	385

6. Counsel for the petitioner has stated, that even as per the comparative analysis tabulated above by the State, the only batch No. PCCIH292 of 'Proxywel Spas' tablets, was recovered from the godown of the petitioner, i.e. 227 boxes. The other two medicines, i.e. 'Alprasaft 0.5' and 'Proxyband Spas', recovered from Rishi Kumar Singh and Kuldeep Kumar, were not recovered from the godown of the accused. As regards the drugs which are listed from serial no. 4 to 9 in the table above, these were not recovered from the accused Rishi Kumar Singh and Kuldeep Kumar, and only some quantities were recovered from the godown of the petitioner, as per the prosecution.



7. He has pointed out to the Spot Memo dated 16th December 2022, where it has been stated, that the petitioner is running a firm in the name of M/s. Chitra Surgi Pharma, which holds a *valid drugs licence* and has applied for retention of the said licence, for further period.

8. Basis the same, counsel for the petitioner states that there is no reason, why the petitioner should be implicated for quantity which was found in his stock, considering that he has legitimately acquired the same, under a licence, and was permitted to stock the same.

9. The prosecution has relied upon the seizure memo of M/s. Life Line India Company, to which, the batches of the substances seized from Rishi Kumar Singh and Kuldeep Kumar were traced to. Para 7 of the seizure memo placed on record by the State with respect to the M/s. Life Line India Company states that some sale records of particular batches, in respect of M/s. Chitra Surgi Pharma had been obtained. However, perusal of the same shows, that batch No. PCCIH292 does not find any mention in the seizure memo.

10. On the basis of this, petitioner states that it is clear that number of batches were supplied by M/s. Life Line India Company, not to the petitioner but to other entities, which possibly might have found their way to Rishi Kumar Singh and Kuldeep Kumar. The tracing back to the petitioner, can at best be of batch No. PCCIH292, about which, they have given GST invoices, which would show, that GST amounts were duly paid and there will be no benefit to the petitioner, to purchase these medicines, paying GST and not accounting for it.

11. APP for the State, however, states, that not only the petitioner has not been able to show the purchase invoices with respect to these seizures, but



also, certain quantities have been recovered from his godown. Having perused the record and considered the submission of the parties, the Court is of the *prima facie* opinion, that there are some discrepancies, in the batch numbers, and the extent to which the prosecution has been able to establish the linkage of the recovered substances and tracing it back to the petitioner.

12. There is also an issue relating to sales invoices, which needless to state, will be a question which shall have to be determined during trial.

13. In this regard counsel for the petitioner relies upon the decision passed by the Co-ordinate Bench of this Court in ***Abdul Qaider v. Narcotic Control Bureau*** 2024:DHC:3145, relevant passages are extracted hereunder:

“23. There also seems to be some merit in the contention of the learned counsel for the petitioner that the petitioner was validly purchasing the tramadol tablets as he owns a valid license to sell, stock or exhibit or offer for sale or distribute by wholesale drugs specified in Schedules C & C(1) excluding those specified in Schedule X. The licence No. BW-27/HDR/AUG/2017 issued by the Drug Licensing Authority (Sales), Garhwal Division (Uttarakhand) having validity from 16.08.2017 to 15.08.2022 in favour of the petitioner has been annexed as Annexure-B to the present Bail Application, which has not been disputed by the respondent/NCB.

24. The contention of the learned SPP for the respondent that during investigation of the present case the petitioner has provided forged and fabricated bills of sale of NRx tablets cannot be appreciated at this stage as the said exercise will be undertaken by the learned Special Judge since the same would require meticulous and detailed examination of the evidence. This Court while adjudicating the bail application of the petitioner cannot undertake such an exercise and has to only consider the broad probability in ascertaining whether there are reasonable grounds for believing that the accused is not guilty of the said offence.”

14. APP for the State also points out to various audio files, which have been recovered from the mobile phones, of the calls exchanged between the accused persons, alleged to be, regarding the consignment of psychotropic



substances.

15. Counsel for the petitioner has relied upon the value of disclosures and CDR connectivity, in this regard, as per which, the Courts have consistently in context of implication of an accused, *inter alia* relied on ***Tofan Singh v. State of Tamil Nadu*** (2021) 4 SCC 1, as well as, ***Suliaman Agha Saihoon v. Narcotics Control Bureau*** 2024 SCC OnLine Del 3309.

16. On the basis of above assessment, the Court is of the view, that *prima facie*, that there are reasonable grounds for believing the petitioner shall not be made guilty of such an offence, considering that there are no previous involvements and there is no apprehension that he is likely to commit any offence while on bail.

17. Moreover, it is also the position, that out of 40 odd witnesses, none have been examined yet, even after two years of the FIR being registered. In this regard, it may be useful to note various decisions of the Supreme Court, on long custody including, ***Man Mandal & Anr. v State of West Bengal*** 2023 SCC OnLine SC 1868, ***Rabi Prakash v State of Odisha*** 2023 SCC OnLine SC 1109, ***Dheeraj Kumar Shukla v State of U.P.*** 2023 SCC OnLine SC 918, ***Badsha Sk. v State of West Bengal*** 2023 SCC OnLine SC 1867, ***Mohd. Muslim alias Hussain v State (NCT of Delhi)*** 2023 SCC OnLine SC 352. In this regard, counsel for the petitioner also pointed out an order of the Supreme Court in ***Naeem Ahmed alias Naim Ahmad v. Govt. of NCT of Delhi*** CRL. A. 1247/2024, order dated 28th February 2024.

18. In light of the above, and that the trial in the matter is likely to take some time, and it would not be prudent to keep the petitioner behind bars for an indefinite period, this Court finds it to be a fit case for grant of bail to the petitioner. Consequently, the petitioner is directed to be released on bail on



furnishing a personal bond in the sum of Rs. 25,000/- with one surety of the like amount subject to the satisfaction of the Trial Court, further subject to the following conditions:

- i. Petitioner will not leave the country without prior permission of the Court.
 - ii. Petitioner shall provide permanent address to the Trial Court. The petitioner shall intimate the Court by way of an affidavit and to the IO regarding any change in residential address.
 - iii. Petitioner shall appear before the Court as and when the matter is taken up for hearing.
 - iv. Petitioner shall join investigation as and when called by the IO concerned.
 - v. Petitioner shall provide all mobile numbers to the IO concerned which shall be kept in working condition at all times and shall not switch off or change the mobile number without prior intimation to the IO concerned.
 - vi. Petitioner will mark presence physically/virtually before the concerned I.O. every first and third Friday at 4 p.m., and will be not kept waiting for more than an hour.
 - vii. Petitioner shall not indulge in any criminal activity and shall not communicate with or come in contact with any of the prosecution witnesses, the complainant/victim or any member of the complainant/victim's family or tamper with the evidence of the case.
19. Needless to state, but any observation touching the merits of the case is purely for the purposes of deciding the question of grant of bail and shall not be construed as an expression on merits of the matter.



20. Copy of the order be sent to the Jail Superintendent for information and necessary compliance.
21. Accordingly, the petition is disposed of. Pending applications (if any) are disposed of as infructuous.
22. Order be uploaded on the website of this Court.

ANISH DAYAL, J

NOVEMBER 18, 2024/DU/kp