



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

I. CRM-M-55801-2024
STATE OF PUNJAB

...PETITIONER

Vs.

NITIN KUMAR

... RESPONDENT

II. CRM-M-55802-2024
STATE OF PUNJAB

...PETITIONER

Vs.

SANJEEV KUMAR ARORA

... RESPONDENT

III. CRR-2447-2024
STATE OF PUNJAB

...PETITIONER

Vs.

NITIN KUMAR

... RESPONDENT

IV. CRM-M-26362-2023
RISHI KUMAR

...PETITIONER

Vs.

State of Punjab

... RESPONDENT

V. CRM-M-25524-2024
RAJIV KUMAR @ GAURAV @ MANNU

...PETITIONER

Vs.

STATE OF PUNJAB

... RESPONDENT

Reserved on: 21.01.2025
Pronounced on: 28.01.2025

CRM-M-55801-2024
CRM-M-55802-2024
CRR-2447-2024
CRM-M-26362-2023
CRM-M-25524-2024

2025:PHHC: 012959
2025:PHHC: 012959
2025:PHHC: 012959
2025:PHHC: 012959
2025:PHHC: 012962

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Argued by:- Mr. Rajeev K. Takkar, Sr. DAG, Punjab.

Mr. Sidhant Vermani, Advocate,
for the respondent (in CRM-M-55801-2024 and CRR-2447-2024)

Mr. Tushar Khairnar, Advocate,
for the respondent (in CRM-M-55801-2024)

Mr. Gaurav Chopra, Sr. Advocate, with
Mr. Mohit Giri, Advocate,
for the petitioner (in CRM-M-26362-2023)

Mr. Ruhani Chadha, Advocate,
for the petitioner (in CRM-M-25524-2024)
(through video recording)

DEEPAK GUPTA, J.

This order shall dispose of five petitions titled above, as all of them have arisen out of same FIR No.305 dated 21.12.2022 under Sections 22(c), 27A and 29 of the Narcotics Drugs and Psychotropic Substances Act (Act N: 61 of 1985)[for short 'the NDPS Act'] read with Sections 420, 468, 471, 120B and 34 of the Indian Penal Code, 1860, registered at Police Station A Division, Amritsar City.

2.1 In CRM-M-26362-2023, petitioner-Rishi Kumar seeks regular bail under Section 439 Cr.P.C and it is his first petition.

2.2 In CRM-M-25524-2024, petitioner-Rajiv Kumar @ Gaurav @ Mannu seeks regular bail under Section 439 Cr.P.C and this is his third petition. His (*Rajiv Kumar @ Gaurav @ Mannu's*) first petition bearing CRM-M-12639-2023 was dismissed by this Court on 23.08.2023 (Annexure P8) along with four other petitions. Second petition bearing CRM-M-6934-2024 was dismissed as withdrawn vide order dated 15.02.2024 (Annexure P9).

2.3 Petition bearing CRM-M-55802-2024 under Section 483 (3) BNSS, 2023 [*old Section 439 (2) Cr.P.C*] has been filed by State of Punjab seeking

cancellation of the bail granted to respondent-Sanjeev Kumar Arora by Id. Judge, Special Court/Additional Sessions Judge, Amritsar vide order dated 15.03.2024.

2.4 Similarly, in CRM-M-55801-2024 filed under Section 483 (3) BNSS, 2023 [old Section 439 (2) Cr.P.C] , State of Punjab seeks cancellation of bail granted to respondent/co-accused-Nitin Kumar by the Id. Judge, Special Court/Additional Sessions Judge, Amritsar vide order dated 23.04.2024.

2.5 In CRR-2447-2024 filed by State of Punjab, prayer is made for setting aside the order dated 05.04.2024 of the trial Court, whereby the respondent/co-accused-Nitin Kumar has been discharged for the offences under NDPS Act.

Background of the case / Prosecution case

3.1 Before considering the contentions raised in all the petitions, it will be apt to mention in brief the facts of the case, which were noticed by this court in its order dated 23.08.2023 (*Annexure P-8 in CRM-M-25524-2024*), whereby bail petitions of five accused were dismissed.

(i) As per prosecution allegations, on 21.12.2022, **Nishan Sharma** s/o Baldev Raj Sharma was apprehended on the basis of secret information from bus stand, Amritsar by a police party headed by Inspector Rajwinder Kaur, SHO of Police Station A-Division, Amritsar City. After making necessary statutory compliances, his search resulted in recovery of 29,920 intoxicating tablets of Tramadol Hydrochloride 100 mg, Cosidol-100 SR tablets of Bluepen Laboratories Pvt. Ltd. (ISO 9001:2015 certified company), manufactured by Rapport Remedies, Dehradun with batch No. RRNT-11/049, RRND/11/038 and T12217.

(ii) On interrogation, said Nishan Sharma suffered disclosure statement on 22.12.2022 to the effect that he used to purchase the intoxicating tablets from **Nadeem** r/o Rurki, Uttrakhand and that he had to

handover/supply the aforesaid tablets to **Rajiv Kumar @ Gourav @ Mannu**. He also disclosed that earlier also, he had supplied the tablets to said Rajiv Kumar @ Gourav @ Mannu and other associates many times. It was also disclosed that said Rajiv Kumar @ Gourav @ Mannu used to further sell the tablets to others and that said Rajiv Kumar @ Gourav @ Mannu had given him (Nishan Sharma) ₹60,000/- for bringing the intoxicating tablets and that after adding the remaining amount, he had brought the tablets for ₹1,10,000/- from Nadeem.

(iii) On the basis of aforesaid disclosed statement of Nishan Sharma, petitioner Rajiv Kumar @ Gourav @ Mannu and Nadeem were nominated in the FIR. **Rajiv Kumar @ Gourav @ Mannu** was arrested on 22.12.2022 and drug money of ₹29,300/- was recovered from him. On interrogation, said Rajiv Kumar @ Gourav @ Mannu suffered disclosure statement to the effect that he was habitual of selling intoxicating tablets, which he used to purchase from co-accused Nishan Sharma; that he had given ₹60,000/- in advance to Nishan Sharma for purchasing the intoxicating tablets and remaining amount was to be given to him after selling the contraband. Rajiv Kumar @ Gourav @ Mannu and Nishan Sharma were produced before Id. Area Magistrate along with the parcels of the contraband and proceedings under Section 52A of the NDPS Act were initiated.

(iv) During course of further investigation, the firm M/s Rapport Remedies situated in Industrial Area, Selaqui, Dehradun, Uttarakhand was inspected on 23.12.2022 by the officials of Punjab Police Drug Control Department along with officers of Drug Control Department of Dehradun. Accused **Usman Rehman**, the in charge and partner of the firm was present. It was found that manufacturing drug license of the said firm had been canceled vide letter dated 28.10.2022 of the competent authority, which had been received by the firm on 03.11.2022. Despite cancellation of its license, the firm continued to manufacture the intoxicating tablets containing Tramadol Hydrochloride as active ingredient in its different brands of various batches. It

CRM-M-55801-2024
CRM-M-55802-2024
CRR-2447-2024
CRM-M-26362-2023
CRM-M-25524-2024

2025:PHHC: 012959
2025:PHHC: 012959
2025:PHHC: 012959
2025:PHHC: 012959
2025:PHHC: 012962

was further found that the said firm had sold 85000 capsules of Chelcidol-50; 1,44,000 tablets of LOS DOL 100 SR and 1,76,000 tablets of Cosidol 100 SR to M/s Bluepen Laboratories Private Limited, Dehradun vide different invoices of 21.11.2022, 10.11.2022 and 30.11.2022 i.e., even after intimation of cancellation of its drug manufacturing licence. However, on inspection no physical stock of the dosage containing Tramadol Hydrochloride as active ingredient was found; and as per the register of the raw material, stock in hand of Tramadol Hydrochloride was Nil. Spot Inspection Memo was prepared. Usman Rehman, owner of the firm was nominated as accused.

(v) Thereafter, on the same date as 24.12.2022, the firm M/s Bluepen Laboratories Pvt. Limited was inspected by the officers of Punjab Police Drug Control Department along with the officers of Drug Control Department of Dehradun (Uttarakhand). Inspection was conducted in the presence of **Manoj Kumar Sahu**, the competent person, authorized signatory as well as Director of the said Bluepen Laboratories Pvt. Limited. Said firm was found to hold a valid wholesale drug license, granted on 11.09.2021 and valid up to 10.09.2026. It was found that said firm had purchased 85,000 and 3,20,000 tablets from Rapport Remedies. On inspection of the sale record, the company was found to have sold the intoxicating tablets to A-Pharma, Shop No. G-27, R.K. Plaza, Plot No.5, Sector 21, Rohini Phase II, Delhi vide an invoice dated 11.11.2022. The firm was further found to have sold intoxicating tablets to various other firms by way of different invoices. The firm was found to have stocked 85,000 capsules of Chelcidol and 3,20,000 tablets of Casidol, containing Tramadol Hydrochloride as an active ingredient, having purchased the same from M/s Rapport Remedies. The same were found to have been manufactured by M/s Rapport Remedies after the date of cancellation of its manufacturing license. Thus, the company M/s Bluepen Laboratories Pvt. Limited, having purchased the drugs from manufacturing firm, after cancellation of the license, was found to have violated the conditions of the drug license. All the aforesaid intoxicating tablets were taken in possession as per law/rules.

(vi) Accused Usman Rehman was arrested on 25.12.2022 and on interrogation, he suffered disclosure statement admitting to have sold 85,000 intoxicating capsules and 3,20,000 intoxicating tablets to Manoj Kumar Sahu of M/s Bluepen Laboratories Pvt. Ltd. He also disclosed that he could get the recovery effected from the premises of Bluepen Laboratories Pvt. Limited. Said Usman Rehman further disclosed that apart from selling the narcotic capsules and tablets to the aforesaid Bluepen Laboratories Pvt. Limited, he was also selling the same to various other marketing firms through Bluepen Laboratories Pvt. Limited and M/s Basumed Health Care Pvt. Ltd. to one **Suraj Sharma**, owner of A-Pharma, and even had supplied directly to Nadeem resident of Roorkee; and that Nadeem used to further sell the intoxicating tablets/capsules to other persons of Punjab State; and that on his direction, Nadeem also used to sell the same to Nishan Sharma in Amritsar and also to A-Pharma, Sector 21, Rohini, Delhi. Said Usman Rehman also disclosed about his knowledge of phone number and addresses of Nadeem and above said A-Pharma.

(vii) On the basis of disclosure statement of accused Usman Rehman, the documents relating to drug license of the firm A-Pharma of Rohini, Delhi were verified from Drug Control Board Delhi, which revealed **Suraj Sharma** to be owner and **Nitin Kumar** to be the competent person of the said firm. However, Suraj Sharma was found to be not residing at the address given in his Aadhar card. The firm A-Pharma was not found to be working at the given address, as neither any medicine nor any bills etc. were lying there. Nitin Kumar, the competent person of the firm was found to be present at home, who told that he had never met Suraj Sharma. Photograph of Suraj Sharma affixed on the license was shown to Nitin Kumar, but he expressed his ignorance about any such person and told that he had appended his signature for obtaining the license on the asking of **Sanjeev Kumar Arora @ Sanjiv Arora** from the drug department, for ₹3000/- per month.

(viii) **Nitin Kumar** led the police team to the shop of Jan Aushadhi at Vikas Puri, where Sanjeev Kumar Arora was found. Said Sanjeev Kumar Arora

also showed his ignorance regarding any person by the name of Suraj Sharma by telling that he neither met him nor he identified the person on the photograph affixed on the drug license. However, said Sanjeev Kumar Arora admitted to have got prepared the file of drug license of A-Pharma and further told that they were also running one more firm in the name of medical store M/s A-One at Chemist J.J. Colony, Sanda Ghevra Delhi and that license of that firm had also been got issued by preparing the documents in the name of Preeti Devi and Anku Kumar like documents prepared for A-Pharma. Upon verification, the shop of A-One was found to be closed, whereas residential address of Preeti Devi was found to be fake. Thus, involvement of Sanjeev Kumar Arora and Nitin Kumar was found for obtaining the drug license by submitting false documents in the name of fake firms and for running the business of intoxicating medicines in huge quantity. Both of them were arrested on 31.12.2022, having violated Section 27A and 29 of the NDPS Act and Section 420, 468, 471, 120B and 34 IPC.

(ix) Drug licenses issued in the name of aforesaid fake firms i.e. A-Pharma and M/s A-One Chemist, were canceled by the competent authority. On interrogation, during police remand, accused Nitin Kumar suffered disclosure statement on 02.01.2023 that **Rishi Kumar** son of Rama Bali of West Delhi used to deliver the intoxicating tablets at firm A-Pharma and also used to bring the sale consideration amount. As such, said Rishi Kumar was nominated as co-accused in the case and arrested on 07.01.2023. Drug money of ₹4 lakh was recovered from him.

(x) During his custodial interrogation, Rishi Kumar suffered disclosure statement, as per which he along with **Rajan Kumar** and his distant brother-in-law namely **Santosh Prashad** were involved in drug paddling of intoxicating tablets, which they used to purchase from Bluepen Laboratories Pvt. Limited, Dehradun, Uttarakhand. The consignment of intoxicating tablets was transported through Delhi and that it was the responsibility of Rajan Kumar and Santosh Prashad to get released the consignment from transporters and the

drug proceeds were distributed amongst them. Said Rishi Kumar further disclosed that he and Santosh Prashad used to invest drug proceeds in their chemist shop namely A-One Chemist and that it is Santosh Prashad, who had sent him to accused Sanjeev Kumar Arora for preparing the file of A-Pharma in the name of Suraj Kumar. The retail license of A-One chemist was prepared in the name of Preeti Devi, who is the wife of accused Santosh Prashad @ Dr. Rajesh.

(xi) On the basis of above disclosure statement, **Rajan Kumar** was nominated as accused in this case and was arrested on 08.01.2023. On interrogation, he suffered disclosure statement on similar lines as of Rishi Kumar and also told that they had hired one Auto Rickshaw of **Sumeet** for the purpose of transporting the intoxicating tablets and that the same were received in Punjab from Manoj Kumar Sahu, owner of Bluepen Laboratories Pvt. Limited, on the basis of fake bills of other medicines, being used in daily routine. Said Rajan Kumar further disclosed that he along with Rishi Kumar and **Santosh Prashad @ Dr. Rajesh** had kept 10 to 15 boxes of intoxicating tablets in a house at Shiv Vihar, Uttam Nagar, Delhi taken as rent in his name. The said disclosure statement made by petitioner Rajan Kumar resulted into recovery of 15 boxes containing 3,56,800 intoxicating tablets containing Tramadol Hydrochloride, from the disclosed place, which were taken into possession as per rules.

(xii) During the course of further investigation, Manoj Kumar Sahu, owner of Bluepen Laboratories Pvt. Limited, was arrested on 14.02.2023 and recovery of 19,700 intoxicating tablets, 14,832 intoxicating capsules and 45,925 intoxicating injections were effected from him.

(xiii) The recovered intoxicating materials were sent for necessary analysis at FSL. Reports have been received and after concluding the investigation, final report under Section 173(2) Cr.P.C. has been filed qua accused Rajan Kumar, Nishant Sharma, Usman, Nitin Kumar, Sanjeev Kumar

Arora, Rishi Kumar and Manoj Kumar Sahu, though charges are yet to be framed. Co-accused Santosh Prashad @ Dr. Rajesh, Suraj Sharma, Vikrant Tomar, Nadeem Ahmed and Sumeet, are yet to be arrested.

4.1 Five of the accused namely Rajeev Kumar @ Gourav @ Mannu, Uman Rehman, Nitin Kumar, Sanjeev Kumar Arora @ Sanjiv Arora, Rajan Kumar filed following different five petitions seeking regular bail: -

CASE NO.	TITLE
CRM-M-12639-2023	Rajiv Kumar @ Gourav @ Mannu Vs. State of Punjab
CRM-M-35076-2023	Uman Rehman Vs. State of Punjab
CRM-M-23126-2023	Nitin Kumar Singh Vs. State of Punjab
CRM-M-13056-2023	Sanjeev Kumar Arora @ Sanjiv Arora Vs. State of Punjab
CRM-M-31064-2023	Rajan Kumar Vs. State of Punjab

4.2 All the abovesaid five petitions were dismissed by this Court vide a common order dated 23.08.2023 (*Annexure P-8 in CRM-M-25524-2024*).

CRM-M-25524-2024

5. Thereafter, petitioner/accused-Rajeev Kumar @ Gaurav @ Mannu filed **CRM-M-25524-2024** before this Court contending that earlier his petition bearing CRM-M-12639-2023 and petitions of four other co-accused had been rejected by this Court vide order dated 23.08.2023, but later on, after the dismissal of the bail petition of the petitioner and the co-accused, Ld. Judge, Special Court, Amritsar had already granted regular bail to co-accused Sanjeev Kumar Arora and Nitin Kumar Singh vide orders dated 15.03.2024 (*Annexure P-10*) and 23.04.2024 (*Annexure P-11*), respectively, despite the fact that bail to them had also been declined by this Court on 23.08.2023. It was pleaded by the petitioner that his case was similar to that of Sanjeev Kumar Arora and Nitin Kumar, but when he applied for bail before the Trial Court, it was declined by

the Court on 06.04.2024 vide 2024 (Annexure P-12). Ld. Counsel prayed for bail on basis of parity.

CRM-M-26362-2023

6. On behalf of the petitioner-Rishi Kumar, it has been contended that said accused has been nominated on the basis of disclosure statement of co-accused Nitin Kumar, so petitioner is entitled for bail, since said Nitin Kumar has already been allowed bail by the Special Court, Amritsar; that no recovery was effected from the said petitioner-Rishi Kumar and that there is nothing to show that recovery of ₹4 lakh allegedly recovered as drug money from him pertain to the sale and purchase of any drug; and that petitioner is in custody for the last more than one year, as trial is likely to take long time.

7. In the above CRM-M-25524-2024, pertaining to petitioner-Rajiv Kumar @ Gaurav @ Mannu, following order was passed by this Court on 12.09.2024: -

“In compliance of the previous order dated 08.08.2024, affidavit of Smt. Neeraj Azad, Deputy District Attorney (Prosecution), Amritsar has been placed on record along with certified copy of the second bail application, which was moved by co-accused Nitin Kumar before the Court of Sessions.

By way of detailed order dated 23.08.2023 (Annexure P-8) passed by this Court, bail petitions of the 05 co-accused namely Rajiv Kumar @ Gourav @ Mannu, Uman Rehman, Nitin Kumar Singh, Sanjeev Kumar Arora @ Sanjiv Arora and Rajan Kumar were dismissed by this Court in a case arising out of FIR No. 305 dated 21.12.2022 registered at Police Station Division-A, Police Commissionerate, Amritsar under Section 22 (c) of NDPS Act, 1985.

One of those accused namely Rajiv Kumar @ Gourav @ Mannu has now approached this Court for seeking bail.

The contention of the petitioner is that after dismissal of the earlier bail petition of the petitioner along with the co-accused by this Court vide order 23.8.2023, two of the co-accused namely Sanjeev Kumar Arora and Nitin

Kumar Singh have been allowed bail by learned Additional Sessions Judge, Amritsar vide order dated 15.03.2024 and 23.04.2024 respectively (Annexure P-10 & P- 11), despite the fact that bail to them was also rejected by this Court by way of Annexure P-8. However, when he (petitioner) Rajeev Kumar applied for the bail, the same Presiding Officer rejected his petition vide order dated 06.04.2024 (Annexure P-12).

This Court noticed on 24.05.2024 that there was no reference whatsoever of the order dated 23.08.2023 (Annexure P-8) as passed by this Court, in the orders dated 15.03.2024 & 23.04.2024 (Annexure P-10 & P-11) passed by learned Additional Sessions Judge, Amritsar. In these circumstances, the respondent- State was asked to inform this Court as to whether the order dated 23.08.2023 of this Court was brought to the notice of the concerned Sessions Court, when the bail applications of the co-accused Sanjeev Kumar Arora and Nitin Kumar Singh were considered and allowed. It was informed on the last date of hearing i.e., 08.08.2024 to this Court that the order had been conveyed to the AAP concerned. The Court again directed to file the affidavit of AAP, who was appearing before the Court of Sessions as to whether the order of this court was brought to the notice of the Court of Sessions or not.

Today, affidavit of Mrs. Neeraj Azad, Deputy District Attorney, (Prosecution), Amritsar is placed on record by respondent-State, as per which the entire record was produced before the Court concerned and attention of the trial Court was drawn towards the order dated 23.08.2023 passed by this Court, whereby the bail petitions of co-accused Sanjeev Kumar Arora and Nitin Kumar had earlier been rejected by this Court but still the trial Court allowed bail to both of them. Along with this affidavit, copy of bail petition of Nitin Kumar, which was moved before the concerned Additional Sessions Judge is also placed on record, in which also he made specific reference of the fact that his earlier petition had been rejected by this Court on 23.08.2023.

In the aforesaid facts and circumstances, comments of Shri Ravinderjit Singh Bajwa, Judge, Special Court Amritsar/ Additional Sessions Judge, Amritsar be called as to in what circumstances he has allowed the bail to

accused Nitin Kumar Singh and Sanjeev Kumar by way of orders Annexure P-10 and P-11, despite dismissal of their earlier bail petition by this Court on 23.08.2023 vide Annexure P-8. Said comments be called for 23.10.2024.

In the meantime, Ld. District & Sessions Judge, Amritsar be directed to send the complete files of bail application No. 1315 of 2024 (CNR No.PBAS010034212024) decided on 15.03.2024 vide Annexure P-10; and that of bail application No. 2437 of 2024 (CNR No.PBAS010063672024) decided on 23.04.2024 (Annexure P-11) in sealed cover before this Court, which must reach prior to the date fixed before this Court.

In the meantime, learned State counsel has also undertaken before this Court that State shall move necessary petitions before this Court for cancellation of the bail granted to co- accused Nitin Kumar Singh and Sanjeev Kumar Arora.

Request of Ld. Counsel for the petitioner, made at the fag end, so as to withdraw this petition, is hereby declined.”

8. In pursuance to the aforesaid order, comments of Shri Ravinderjit Singh Bajwa, Judge, Special Court Amritsar/ Additional Sessions Judge, Amritsar were received vide letter N: 172 dated 5th October, 2024 through Ld. District & Sessions Judge, Amritsar.

CRM-M-55801-2024 and CRM-M-55802-2024

9. In the meantime, the State of Punjab moved CRM-M-55801-2024 and CRM-M-55802-2024 seeking cancellation of bail granted by Ld. Judge, Special Court, Amritsar to accused Nitin Kumar and Sanjeev Kumar Arora respectively.

10.1 In these two petitions seeking cancellation of bail granted to accused Nitin Kumar and Sanjeev Kumar Arora, it is contended on behalf of the petitioner-State of Punjab that despite order dated 23.08.2023 of this Court, rejecting the bail to the respondents Nitin Kumar and Sanjeev Kumar Arora

along with three other accused and despite the observations of this court to the effect that entire facts and circumstances of the case revealed that that all the co-accused persons were involved in running a racket of illicit drugs, which after being manufactured at Rapport Remedies were being marketed through Bluepen Laboratories Pvt. Limited and were being further sold to the fake firms created by Sanjiv Arora and co-accused Nitin Kumar and the consignments were transported through Delhi and being further sold in various parts of Punjab, the learned Judge, Special Court, Amritsar has granted the bail to these two respondents by ignoring the observations made by this Court.

10.2 It is contended by Id. State Counsel that the order dated 23.08.2023 of this Court was specifically brought to the knowledge of the learned Judge, Special Court/ Additional Sessions Judge, Amritsar by the Id. Deputy District Attorney, Amritsar representing the prosecution at the time of arguments, as mentioned by her in her affidavit dated 04.10.2024 submitted before this Court in compliance of the directions contained in the order dated 08.08.2024. Besides, there was no change in the circumstances after dismissal of the bail petition by this Court warranting grant of bail by the learned Judge, Special Court /Additional Sessions Judge, Amritsar.

10.3 It is contended further that in the bail petition moved by respondent-Nitin Kumar before learned Judge, Special Court /Additional Sessions Judge, Amritsar, he had specially mentioned that his regular bail application under Section 439 Cr.PC had been rejected by the High Court vide order dated 23.08.2023 passed in CRM-M-23216-2023 and the said fact was also brought to the notice of the Court of learned Judge, Special Court / Additional Sessions Judge, Amritsar by the Id. Deputy District Attorney, Amritsar at the time of arguments, but still the Court proceeded to grant him bail despite there being no change in circumstances and by ignoring the order passed by this Court.

10.4 With these contentions, Id. State counsel seeks cancellation of bail granted to respondents – accused Nitin Kumar and Sanjeev Kumar Arora.

CR No.2447-2024

11.1 In CR No.2447-2024, the State of Punjab has prayed to set aside the order dated 05.04.2024 passed by the trial Court of Ld. Judge, Special Court, Amritsar, whereby the respondent Nitin Kumar has been discharged for the offences under the provisions of the NDPS Act.

11.2 After giving brief facts of the case, the State in this petition has given the summary of the recoveries effected from the eight accused arrested in this case as under: -

- (i) **Nishan Sharma** son of Baldev Raj Sharma resident of Near Babbu Councilor, Near Sadar Police station, Amritsar
(Date of arrest: 21.12.2022)
(Recovery: 29920 intoxicating tablets)
- (ii) **Rajiv Kumar alias Saurav alias Mannu** son of Satish Kumar, resident of Gali Kandhari Wali, Loon Mandi, Amritsar;
(Date of arrest: 22.12.2022)
(Recovery: Drug money of Rs. 29,300/-)
- (iii) **Usman Rehman** son of Shri Noor Mohammad, resident of C15, Sana Colony, Tunnel Road, Dehradun (Uttarakhand).
(Date of arrest: 25.12.2022)
(Recovery: 85,000/- capsules of brand name CHELCIDOL- 50, 1,44,000 Tablets of LOS DOL 100 SR and 1,76,000/- with the total of 03,20,000/- intoxicant tablets)
- (iv) **Nitin Kumar Singh** son of Vinod Kumar resident of House No. 141, Second Floor, (Respondent/accused) Sector 21, Rohini, Delhi.
(Date of Arrest: 31.12.2022)
(Recovery: documents of firm A-Pharma)
- (v) **Sanjeev Arora** son of Late Madan Lal Arora, resident of MG- 1/69, Vikaspuri, New Delhi;
(Date of Arrest: 31.12.2022)
(Recovery: CPU from which he has prepared and uploaded forged/fictitious documents of the drug departure.)

- (vi) **Rishi Kumar** son of Rama Bali resident of Ropawali Saraiya, District Muzaffarpur, Bihar,
(Date of Arrest: 07.01.2023)
(Recovery: 3,56,800 intoxicant tablets jointly with co accused Rajan Kumar and Rs. 4 lakh Drug money)
- (vii) **Rajan Kumar** son of Late Mitlesh Prashad resident of Chainpur, District Saran, Bihar,
(Date of Arrest: 08.01.2023)
(Recovery: 3,56,800 intoxicant tablets jointly with co- accused Rishi Damar.)
- (viii) **Manoj Kumar Sahoo** son of Bhaskar Chandar Sahoo, House No. B-102, Rock Valley Apartment, Sewla Kalan, Dehradun;
(Date of Arrest: 14.02.2023)
(Recovery: 45,925 intoxicant injections, 14,925 intoxicating capsules and 19,700 intoxicant tablets)

Total Recovery: 99832 intoxicant capsules, 726420 intoxicant tablets, 45,925 intoxicant injections and Rs.42,9300/- drug money.

11.3 It is contended by the State that respondent-accused Nitin Kumar was nominated as co-accused on the basis of disclosure statement dated 28.12.2022 suffered by co-accused Usman Rehman, disclosing that he used to sell intoxicating tables in wholesale to co-accused-Suraj Sharma, the owner of A-Pharma through his other firms namely, Bluepen Laboratories Pvt. Limited and M/s Basumed Health Care Pvt. Ltd. and the remaining stock of the intoxicating tablets was in the knowledge of Suraj Sharma. On the basis of this disclosure statement of co-accused Usman Rehman, Suraj Sharma was nominated but during investigation, no such person in the name of Suraj Sharma was found and while the Investigating Officer raided the house of co-accused Suraj Sharma, they met the respondent-Nitin Kumar and it was found that he had given his certificate to Suraj Sharma without any verification. It was further found during investigation that said respondent-Nitin Kumar had

signed/forged documents in the name of the company A-pharma to facilitate the supply and sale of intoxicating tablets by them at the instance of co-accused Sanjeev Kumar Arora, who had promised to pay ₹3,000/- per month to him for that purpose. The documents related to the company A-pharma were recovered from the possession of respondent-Nitin Kumar and thus, these acts of the respondent fall within the ambit of Section 29 of the NDPS Act read with Sections 420, 468, 471 and 120B/34 of the IPC.

11.4 It is contended further that it has also been found during investigation that the drug manufacturing license of M/s Rapport Remedies owned by Usman Rehman was already cancelled on 28.10.2022. Trial Court has ignored the fact that there is clear evidence on record that licenses prepared by respondent-Nitin Kumar have been found to be fake licenses, which was used by the other co-accused for running the illicit business of manufacture and supply of the intoxicating tablets and capsules.

11.5 Apart from above, Ld. State counsel has also drawn attention of this Court towards the order dated 23.08.2023 passed by this Court, whereby the bail petition of five co-accused including Nitin Kumar was rejected, wherein this Court had specifically discussed the role of Nitin Kumar, stating therein that he was also involved in the racket. It is contended that trial Court ignored the settled proposition of law that at the time of framing of the charge, the trial Court is required only to see the *prima facie* case as to whether there is sufficient ground for proceeding against the accused or not and the Court is not required to appreciate the evidence to conclude whether the material produced are sufficient or not for convicting the accused. It is argued that at the stage of considering the charge, Court is required to evaluate the material evidence on record with a view to find out the facts emerging therefrom taking them at their face value and disclosing the existence of all the ingredients constituting the offence and therefore, the impugned order passed by the trial Court is not legally sustainable in view of the judgment passed by Hon'ble Supreme Court in ***Mauvin Gobindo Vs. State of Goa, AIR 2018 SC 749***, wherein

it has been held that Court should apply a *prima facie* standard, while framing the charge against the accused and at that stage, there cannot be a roving enquiry in the pros and cons of the matter and weigh the evidence as if conducting a trial. Reliance has also been placed on ***State of Madhya Pradesh Vs. Mohanlal Soni, AIR 2000 SC 2583.***

11.6 With these submissions, prayer is made to set aside the impugned order dated 05.04.2024 passed by the trial Court, discharging the respondent Nitin for the offences under the provisions of NDPS Act, with a further prayer to add the provisions of NDPS Act along with already charged offences under Section 420, 468, 471 and 120B/34 IPC.

12. Along with the aforesaid CR-2447-2024, the State also moved application bearing CRM-47914-2024 under Section 5 of the Limitation Act to condone the delay of 129 days in filing the criminal revision.

13. The respondent of the aforesaid petition i.e. Nitin Kumar filed reply opposing the application for condonation of delay.

14. This Court vide separate order dated 21.01.2025 has disposed of CRM-47914-2024 by condoning the delay of 129 days in filing the revision.

Reply on behalf of Nitin Kumar (respondent in CR No.2447-2024)

15. Separate reply has been filed on behalf of respondent Nitin to the petition for setting aside the order dated 05.04.2024. It is contended therein that Id. Special Court has come to a specific conclusion that from the unrebutted case of the prosecution qua the petitioner (Nitin), the sole allegations against him related to the signing of certain documents in lieu of salary of ₹3000/- as a competent person, which was later on misused in obtaining license of firm M/s A-Pharma by co-accused Sanjeev Kumar Arora and so, at best the same constituted offences under IPC and not under NDPS Act and as such, the order discharging the respondent Nitin Kumar under NDPS Act, is well justified. It is also contended that there is complete lack of *mens rea* or

active participation of respondent Nitin Kumar in the recovery of intoxicating drugs. It is also argued that disclosure statement of the co-accused or that of the respondent are not admissible. With these submissions, prayer is made for dismissal of the petition.

Reply on behalf of Nitin Kumar (respondent in CRM-M-55801-2024)

16. In reply to CRM-M-55801-2024, seeking cancellation of bail by the petitioner-State, it is contended by respondent Nitin Kumar that he was discharged by the trial Court on 05.04.2024 from the provisions of NDPS Act after considering all the facts and circumstances and the evidence collected during investigation, which revealed that only recovery of some fake documents was effected from him for obtaining the license of firm A-Pharma, which did not attract the provisions of NDPS Act and that it is only after the discharge from provisions of NDPS Act that he has been allowed bail by the Court on 23.04.2024. It is also contended that before allowing bail, the respondent had already suffered pre-trial incarceration for a period of almost 1 year and 6 month and therefore, there is no justification for cancellation of the bail granted to him.

Reply on behalf of Sanjeev Kumar Arora (respondent in CRM-M-55802-2024)

17. In reply to CRM-M-55802-2024 filed by the State, it is contended by the respondent of this petition namely Sanjeev Kumar Arora that as per the evidence on record, it was found that the only allegation against him was that he had helped the other co-accused in the preparation of forged and fabrication of license in the name of A-Pharma and there was no other allegation against him about his involvement in the alleged crime and therefore, trial Court did not commit any error in granting bail to him. Respondent has justified the order dated 15.03.2024, whereby bail was allowed to him by the trial Court.

Stand of State in CRM-M-26362-2023 & 25524-2024

18. The State of Punjab has opposed the bail petitions of Rishi Kumar as well as Rajiv Kumar by pointing out their involvement in the crime and the specific role as attributed to both of them.

19. This court has considered submissions made by Ld. Counsels for both the sides and have perused the record.

20. As per the settled proposition of law, it is well established principle that once bail has been granted, it would require cogent and overwhelming circumstances for its cancellation. However, at the same time, equally important is to note that bail can be revoked by the Superior Court, if the Court granting bail has ignored the relevant material available on record as has been observed by Hon'ble Supreme Court in ***Vipin Kumar Dhir Vs. State of Punjab, 2021 SCC Online SSC 854.***

21. In ***State Through Delhi Administration vs Sanjay Gandhi, 1978 AIR 961***, it has been observed by Hon'ble Apex Court that:

“Rejection of bail when bail is applied for is one thing; cancellation of bail already granted is quite another. It is easier to reject a bail application in a non-bailable case than to cancel a bail granted in such a case. Cancellation of bail necessarily involves the review of a decision already made and can by and large be permitted only if, by reason of supervening circumstances, it would be no longer conducive to a fair trial to allow the accused to retain his freedom during the trial.”

22. In ***Ms. X vs The State of Telangana (2018) 16 SCC 511***, Hon'ble Supreme Court held that:

“In a consistent line of precedent this Court has emphasised the distinction between the rejection of bail in a non-bailable case at the initial stage and the cancellation of bail after it has been granted. In adverting to the distinction, a Bench of two learned Judges of this Court in ***Dolatram v State of Haryana [(1995) 1 SCC 349]*** observed that:

“Rejection of a bail in a non-bailable case at the initial stage and the cancellation of bail so granted, have to be considered and dealt with on different basis. Very cogent and overwhelming circumstances are necessary for an order directing the cancellation of the bail, already granted. (Generally speaking, the grounds for cancellation of the bail, already granted, broadly (illustrative and not exhaustive) are: interference or attempt to interfere with the due course of administration of justice or evasion of attempt to evade the due course of justice or abuse of the concession granted to the accused in any manner. The satisfaction of the court, on the basis of material placed on the record of the possibility of the accused absconding is yet another reason justifying the cancellation of bail. However, bail once granted should not be cancelled in a mechanical manner without considering whether any supervening circumstances have rendered it no longer conducive to a fair trial to allow the accused to retain his freedom by enjoying the concession of bail during the trial.”

These principles have been reiterated by another two Judge Bench decision in ***Central Bureau of Investigation, Hyderabad v Subramani Gopalakrishnan (2011) 5 SCC 296*** and more recently in ***Dataram Singh v State of Uttar Pradesh (2018) 3 SCC 22***

"It is also relevant to note that there is difference between yardsticks for cancellation of bail and appeal against the order granting bail. Very cogent and overwhelming circumstances are necessary for an order directing the cancellation of bail already granted. Generally speaking, the grounds for cancellation of bail are, interference or attempt to interfere with the due course of administration of justice or evasion or attempt to evade the due course of justice or abuse of the concessions granted to the accused in any manner. These are all only few illustrative materials. The satisfaction of the Court on the basis of the materials placed on record of the possibility of the accused absconding is another reason justifying the cancellation of bail. In other words, bail once granted should not be cancelled in a mechanical manner without

considering whether any supervening circumstances have rendered it no longer conducive to a fair trial to allow the accused to retain his freedom by enjoying the concession of bail during the trial."

23. In ***Myakala Dharmarajam Vs. The State of Telangana, (2020) 2 SCC 743***, it has been held by the Hon'ble Supreme Court: -

9. It is trite law that cancellation of bail can be done in cases where the order granting bail suffers from serious infirmities resulting in miscarriage of justice. If the court granting bail ignores relevant material indicating prima facie involvement of the accused or takes into account irrelevant material, which has no relevance to the question of grant of bail to the accused, the High Court or the Sessions Court would be justified in canceling the bail."

24. The Hon'ble Supreme Court in Criminal Appeal No.658 of 2022 (arising out of SLP (Crl) NO.27 of 2022) titled as ***Imran Vs. Mr. Mohammed Bhava and another decided on 22.04.2022***, has held as under:

"26. Thus, while considering cancellation of bail already granted by a lower court, would indeed require significant scrutiny at the instance of superior court, however, bail when granted can always be revoked if the relevant material on record, gravity of the offence or its societal impact have not been considered by the lower court. In such instances, where bail is granted in a mechanical manner, the order granting bail is liable to be set aside. Moreover, the decisions cited herein above, enumerate certain basic principles which must be borne in mind when deciding upon an application for grant of bail. Thus, while each case has its own unique factual matrix, which assumes a significant role in determination of bail matters, grant of bail must also be exercised by having regard to the above-mentioned well-settled principles".

25. It is thus, clear that an appellate or a Superior Court can set aside the order granting bail, if the Court granting bail did not consider the relevant factors and where the order granting bail suffers from serious infirmities resulting in miscarriage of justice. If the court granting bail ignores relevant

material indicating prima facie involvement of the accused or takes into account irrelevant material, which has no relevance to the question of grant of bail to the accused, the High Court or the Sessions Court would be justified in canceling the bail. Said position of law has been made further clear by Hon'ble Supreme Court in Criminal Appeal No.680 of 2021 arising out of SLP (Crl) No.3155 of 2018 titled as ***M/s Supreme Bhiwandi Wada Manor Infrastructure Pvt. Ltd. Vs. The State of Maharashtra and another*** decided on 26.07.2021.

26. Keeping in mind the abovesaid legal position, it is required to be seen by this Court as to whether the bail granted by Ld. Judge, Special Court, Amritsar to accused Nitin Kumar and Sanjeev Kumar Arora deserve to be cancelled or not.

27. In the order dated 23.08.2023, by which this Court had rejected the bail petitions of these two accused along with three other accused, it was observed by this Court as under: -

“15. Coming to the case of petitioners Nitin Kumar Singh and Sanjeev Arora, their role is not as simple as is projected by their Id. respective counsels. Perusal of General Diary Report No.32 dated 31.12.2022 (*Annexure P2 in CWP-M-23126-2023*) would reveal that after obtaining the certified documents from the drug department of A-Pharma company, to whom the contraband drugs were being supplied by Bluepen Laboratories Pvt. Limited manufactured by Rapport Remedies, the documents revealed Suraj Sharma to be its owner and Nitin Kumar Singh to be its competent person. However, investigation revealed that there was no person in the name of Suraj Sharma residing at the address mentioned in his Aadhar card. Petitioner Nitin Kumar Singh despite being the competent person of A-Pharma, but ironically, did not know any person by the name of Suraj Sharma nor even identified his photograph affixed on the drug license of the firm despite the fact that the documents revealed Suraj Sharma to be owner thereof and petitioner Nitin Kumar Singh being the competent person of the said firm. Not only this, no medicine or any bill was found at the given address of A-Pharma, clearly indicating that the firm was fake and the

firm name was being used just as a camouflage, so as to trade in the illicit drugs.

16. As per petitioner Nitin Kumar Singh, it is on the asking of Sanjeev Kumar Arora that he appended his signature on the relevant documents for obtaining license in the name of A Pharma, on being given ₹3000/- per month. Sanjeev Kumar Arora, who got prepared the documents for obtaining drug license in the name of A-Pharma, also did not know any person by the name of Suraj Sharma. Not only this, the interrogation of Sanjiv Kumar Arora revealed that he had also created another fake firm by the name of M/s A-One with its owner as Preeti Devi but on verification, the shop, the address of which was mentioned in the license of A-One was found to be closed and residential address of Preeti Devi was found to be fake.

17. Thus, the investigation *prima facie* revealed the involvement of both the petitioners Nitin Kumar Singh and Sanjeev Kumar Arora in creating fake firms, which used to sell intoxicating tablets in the States where the sale of illicit drugs is banned. **As it appears that *prima facie*, it is Sanjeev Kumar Arora, who is the *de facto* owner of A-Pharma and A-One, which was dealing in the sale and purchase of contraband drugs and it is because of this involvement of two accused-petitioners Nitin Kumar Singh and Sanjeev Kumar Arora that Sections 27A and 29B of the NDPS Act and Sections 420, 468, 471 and 120B/34 IPC were added. Commission of the said offences is writ large on file having regard to attribution to both of them.**

18. Considering the aforesaid facts and circumstances and the specific role attributed to the two accused Nitin Kumar Singh and Sanjeev Kumar Arora, none of them are held to be entitled for grant of regular bail.'

[Bold portion emphasised in this order]

28. In the order dated 05.04.2024 passed by Id. Special Court, Amritsar, which has been assailed by the State of Punjab in CR-2447-2024, it

has been observed by the Court, while discharging the respondent-accused Nitin Kumar for the offences under NDPS Act, as under: -

“5. The only allegation against the applicant-accused is that he prepared forged and fabricated documents in the name of A. Pharma company at the instance of co-accused Suraj Sharma who had promised him a sum of Rs.3000/- per month for that purpose. That bare allegations taken on face value lead to the conclusion that case of applicant-accused does not fall within the provisions of section NDPS Act. At the most it can be said that there is prima-facie case against the applicant-accused of cheating and preparation of forged documents.

Accordingly, I am of the considered view that applicant- accused Nitin Kumar Singh is entitled to be discharged from the NDPS Act. However, he can be charged for cheating and forgery as per allegations made in the challan submitted by the police.....”

29. The aforesaid observations made by the Special Court, while discharging the accused Nitin Kumar from the provisions of the NDPS Act, run totally contrary to the observations made by the High Court in the order dated 23.08.2023, as have been reproduced in para No.27 above, in which it was clearly mentioned that the investigation prima facie revealed involvement of accused Nitin Kumar and Sanjeev Kumar Arora in creating fake firms, which used to sell intoxicating tablets in the States, where there sale of illicit drugs is banned and it appeared that prima facie it is Sanjeev Kumar Arora, who was de facto owner of A-Pharma and A-One, which was dealing in the sale and purchase of contraband drugs and it is because of this involvement of the two accused Nitin Kumar and Sanjeev Kumar Arora that Sections 27A and 27B of the NDPS Act and Sections 420, 468, 471 and 120B/34 IPC were added and that commission of the said offences was writ large on the file having regard to the attribution to both of them.

30. The Special Court completely ignored the above observations made by this Court without even making any reference whatsoever of the order dated 23.08.2023 of this Court, which was absolutely not warranted. The final report under Section 173 CrPC had already been presented by the State when the order dated 23.08.2023 was passed by this Court. There is nothing to show that after the order dated 23.08.2023 of this Court, any new material was filed by the prosecution before the Special Court so as to justify the discharge of accused Nitin Kumar from the provisions of NDPS Act. Besides, Ld. Judge, Special Court completely ignored well established principle of criminal law that at the time of framing of the charge, the trial Court is required only to see the *prima facie* case as to whether there is sufficient ground for proceeding against the accused or not and the Court is not required to appreciate the evidence to conclude whether the material produced are sufficient or not for convicting the accused.

31. As such, the order dated 05.04.2024 passed by the Special Court, discharging the accused Nitin Kumar from the provisions of NDPS Act, is absolutely not sustainable and the said order is hereby set aside. Trial court concerned is hereby directed to reconsider the charge in the light of observations as made above.

32 Consequently, CRR-2447-2024 filed by State of Punjab is hereby **allowed**.

CRM-M-55801-2024 and CRM-M-55802-2024

33. Coming to CRM-M-55801-2024 and CRM-M-55802-2024, whereby State has sought cancellation of bail granted to accused Nitin Kumar and Sanjeev Kumar Arora by way of orders dated 23.04.2024 and 15.03.2024 respectively by Ld. Judge, Special Court, these orders have again been passed by the Court by completely ignoring the observations made by this Court in order dated 23.08.2023.

34. It is very important to notice that when Nitin Kumar applied for bail before the Court of Id. Judge, Special Court, after the order dated 23.08.2023 of this Court, he specifically mentioned that his CRM-M-23126-2023 had not been allowed by this Court as per order dated 23.08.2023. He sought bail on account of the fact that he had since been discharged vide order dated 05.04.2024 from the provisions of the NDPS Act.

35. The perusal of the order dated 21.04.2024 passed by the Special Court would indicate that the Court did not even refer to the order dated 23.08.2023 of this Court, whereby the bail to accused Nitin Kumar and Sanjeev Kumar Arora had earlier been rejected by this Court after making the observations as have already been reproduced in para No.15 to 17 of the order dated 23.08.2023.

36. Similarly, accused Sanjeev Kumar Arora has been allowed bail by the Special Court on 15.03.2024 by completely ignoring the observations of this Court as referred above. It is despite the fact that accused Nitin Kumar not only disclosed before the Special Court about the dismissal of his bail petition by this Court on 23.08.2023, even Id. Deputy District Attorney, Amritsar representing the prosecution at the time of arguments, as per her affidavit dated 04.10.2024 submitted before this Court, clearly informed the Id. Special Court about the order dated 23.08.2023 of this Court.

37. However, the orders dated 15.03.2024 granting bail to Sanjeev Kumar Arora and order dated 23.04.2023 granting bail to Nitin Kumar by the Special Court would reveal that these are absolutely silent about the order dated 23.08.2023 passed by this Court. There is not even a whisper about the order passed by this Court, thus completely ignoring the said order.

38. It may further be noticed that this Court vide order dated 12.09.2024 in CRM-M-25524-2024, called for the comments of Sh. Ravinderjit Singh Bajwa, Judge Special Court, Amritsar/Additional Sessions Judge, Amritsar as to in what circumstances he had allowed the bail to accused Nitin Kumar and

Sanjeev Kumar Arora despite dismissal of their bail petitions by this Court on 23.08.2023.

39. Comments of the officer vide letter dated 05.10.2024 have been received through the office letter dated 08.10.2024 of Ld. District & Sessions Judge, Amritsar. The comments of Sh. Ravinderjit Bajwa, Judge Special Court, Amritsar/Additional Sessions Judge, Amritsar, the concerned officer read as under: -

“I would like to submit my explanation as per order dated 12.09.2024 of the Hon'ble Punjab & Haryana High Court. I would like to bring to your kind notice that applicant Nitin Kumar Singh was granted bail by this court vide its order dated 23.04.2024 on the ground that after presentation of charge sheet a discharge application had been moved on his behalf. That vide order dated 05.04.2024, this court had discharged accused Nitin Kumar Singh under the provisions of Narcotic Drugs and Psychotropic Substances Act, 1985. But it was held that charge under the provisions of Indian Penal Code regarding cheating and forgery would be framed against him. That as the second bail application for Nitin Kumar Singh was subsequently filed only on the ground that he has been discharged under the Narcotic Drugs and Psychotropic Substances Act, 1985 therefore, he ought to be allowed bail under the provisions of Indian Penal Code. Accordingly, this court allowed the bail to him vide its order dated 23.04.2024 only on the ground that he has been discharged under the provisions of Narcotic Drugs and Psychotropic Substances Act, 1985 and only charges under the Indian Penal Code need to be framed. If your Honour has come to the conclusion that applicant-accused Nitin Kumar Singh need not to have been discharged under the provisions of NDPS Act. Then I would like to submit my sincerest apology for the same. Copy of the discharge order is attached for your kind perusal.

That bail application of applicant-accused Sanjeev Kumar Arora was presented before the Duty Judge on 27.02.2024 and it was subsequently noted upon the report of Ahlmad that this is the first bail application of applicant-accused Sanjeev Kumar Arora. That in title of the bail application, it mentioned

as second petition for bail by applicant-accused Sanjeev Kumar Arora. But in para No.18, it was stated that this is the first petition for bail as previous one has been dismissed as withdrawn. It was also stated in para No.17 of the bail application that a similar bail application is neither pending nor decided by the Hon'ble High Court. That due to the above said averments in petition, I had granted bail to Sanjeev Kumar Arora vide order dated 15.03.2024. That the earlier bail application of this applicant-accused had been dismissed by the Hon'ble High Court was not brought to the notice of this court. Under these circumstances, bail to applicant-accused Sanjeev Kumar Arora was granted by this court. That I would further submit my sincerest apology for granting bail in spite of the fact that the earlier bail application had been dismissed by the Hon'ble High Court. Copy of bail application of the applicant Sanjeev Arora is attached for your kind perusal.

I would further like to bring to your kind notice that due to rush of work and the fact that undersigned after promotion had recently started court work in the month of July 2023, therefore, it was lack of experience which could have led to undersigned granting bail to applicant-accused Sanjeev Kumar Arora.

40. It is apparent from the aforesaid comments that the officer that he has not denied about the fact that the order dated 23.08.2023 of this Court had been brought to his notice by the Deputy Public Prosecutor representing the Prosecution before him, when he allowed bail to Nitin Kumar and Sanjeev Kumar Arora. He has justified the bail granted to Nitin Kumar on the ground that he had earlier been discharged from the provisions of the NDPS Act. He has simply stated that in case this Court comes to the conclusion that Nitin Kumar was not required to be discharged under the provisions of the NDPS Act, then he expresses his sincere apology without commenting as to why he has ignored the observations made by this Court specifically in para No.17 of the order dated 23.08.2023 of this Court.

41. It is thus clear that Ld. Judge, Special Court, Amritsar while granting bail to accused Nitin Kumar and Sanjiv Arora did not consider the relevant factors and by ignoring the relevant material indicating prima facie involvement of these accused. Thus, the impugned orders granting bail to accused Nitin Kumar and Sanjiv Arora suffer from serious infirmities resulting in miscarriage of justice.

42. Having noticed all the aforesaid facts and circumstances, it is held that Id. special Court was not at all justified in granting regular bail to accused Nitin Kumar and Sanjeev Kumar Arora by ignoring the order dated 23.08.2023 of this Court. As such, both the impugned orders as assailed by the State of Punjab, whereby the bail has been granted to these accused, are hereby set aside. The bail granted to Nitin Kumar and Sanjeev Kumar Arora is hereby cancelled. Both of them are directed to surrender before the concerned Special Court, on or before 03.02.2025, who shall immediately send them to judicial custody.

43. As such, both the petitions i.e. CRM-M-55801 & 55802-2024 are hereby **allowed**.

CRM-M-26362-2023

44. Coming to CRM-M-26362-2023, whereby accused Rishi Kumar has sought regular bail, the only contention raised on his behalf is that since he has been nominated on the basis of disclosure statement of co-accused Nitin and the said Nitin was allowed bail by the Special Court, therefore, he should also be allowed bail as there is nothing to indicate recovery of ₹4 lakh to be connected with the sale and purchase of any drug.

45. The aforesaid contention is devoid of any merit, firstly on the ground that bail granted to Nitin Kumar by the trial Court has already been cancelled by this Court as per the aforesaid order and secondly, it is not only the recovery of ₹4 lakh as drug money from him, the recovery of 3,56,800

CRM-M-55801-2024
CRM-M-55802-2024
CRR-2447-2024
CRM-M-26362-2023
CRM-M-25524-2024

2025:PHHC: 012959
2025:PHHC: 012959
2025:PHHC: 012959
2025:PHHC: 012959
2025:PHHC: 012962

intoxicating tablets have also been effected from said accused Rishi Kumar jointly with co-accused Rajan Kumar.

46. For above reasons, this Court is of the opinion that accused Rishi Kumar is not entitled for grant of regular bail and as such, his petition CRM-M-26362-2023 is hereby **rejected**.

CRM-M-25524-2024

47. Coming to CRM-M-25524-2024, earlier bail petition of the petitioner-Rajiv Kumar @ Gaurav @ Mannu had been rejected by this Court on 23.08.2023. There is no change in circumstances. It may also be noticed that on 12.09.2024, counsel for this petitioner-Rajiv Kumar Arora had made a request so as to withdraw the petition. That request was declined by this Court. It is observed by this Court that since there is no change in circumstance, so there is no justification to grant regular bail to him.

48. As such, bail petition of the petitioner Rajiv Kumar @ Gaurav @ Mannu i.e. CRM-M-25524-2024 is also hereby **rejected** without commenting on the merits of the case.

49. All the aforementioned five petitions i.e. CRM-M-55801-2024, CRM-M-55802-2024, CRR-2447-2024, CRM-M-26362-2023 and CRM-M-25524-2024 are hereby disposed of accordingly.

50. A copy of this order be also sent to the Hon'ble Administrative Judge of Sessions Division, Amritsar for his information and taking appropriate action, if deemed fit, against Sh. Ravinderjit Singh Bajwa, Ld. Judge, Special Court/Additional Sessions Judge, Amritsar in the light of detailed observations as have been made by this Court in this order.

51. The original files of Bail Application No.1315 of 2024 (CNR No.PBAS010034212024) decided on 15.03.2024 and that of Bail Application No.2437 of 2024 (CNR No.PBAS010063672024) decided on 23.04.2024, which

CRM-M-55801-2024

CRM-M-55802-2024

CRR-2447-2024

CRM-M-26362-2023

CRM-M-25524-2024

2025:PHHC: 012959

2025:PHHC: 012959

2025:PHHC: 012959

2025:PHHC: 012959

2025:PHHC: 012962

were received from the Id. District Judge, Amritsar in compliance of the order dated 12.09.2024 passed by this Court in CRM-M-25524-2024, be returned back.

52. PDF copy of this order be also sent immediately to the concerned Court of Id.Judge, Special Court/Additional Sessions Judge, Amritsar, for necessary compliances.

53. A photocopy of this order be placed on the files of connected cases.

28.01.2025

Vivek

(DEEPAK GUPTA)

JUDGE

Whether speaking/reasoned?

Whether reportable?

Yes

Yes