

(2011) 04 P&H CK 0321

High Court Of Punjab And Haryana At Chandigarh

Case No: CRM No. M. 2887 of 2011

Anil Kumar

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision: April 18, 2011**Acts Referred:**

- Criminal Procedure Code, 1973 (CrPC) - Section 482
- Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS) - Section 22

Hon'ble Judges: S.S. Saron, J**Bench:** Single Bench**Final Decision:** Allowed

Judgement

S.S. Saron, J.

I have heard learned Counsel for the parties.

2. The Petitioner seeks regular bail in a case registered against him for the offence u/s 22 of the Narcotic Drugs and Psychotropic Substance Act, 1985 (hereinafter called "the Act" for short). The Petitioner had earlier filed CRM No. M-29737 of 2010 for grant of regular bail. In the said petition, an affidavit of Jaskaranjit Singh Teja, PPS, DSP, Sunam was filed in which it was stated that as per the report of the Chemical Laboratory, Government of India, the analysis of the sample indicate that it contained "lorazepam". Legal opinion was sought from the Deputy District Attorney and it was opined that the salt "lorazepam" falls in the list of psychotropic substances in the schedule of the Act. The Petitioner was apprehended with two kgs of intoxicant which on analysis was found to contain "lorazepam" of 1.424%. The salt of lorazepam is a psychotropic substance in terms of entry No. 56 of the schedule relating to psychotropic substances under the Act.

3. The contention of the Petitioner is that his wife Anita Rani has a licence (Annexure P1). The said licence (Annexure P1), however, shows that M/s. Shiva Medical Hall has licence to sell, stock or exhibit (or offer) for sale, or distribute by retail, the

categories of drugs, specified in Schedule C and C(i) excluding those specified in Schedule X to the Drugs and Cosmetic Rules, 1945. Under the category of drugs, it is mentioned as non-biological drugs.

4. During the course of hearing, learned Counsel for the Petitioner has submitted that vide licence No. 19310 dated 8.6.2007 M/s. Shiva Medical Hall has also been licensed to sell stock or exhibit (or offer) for sale, or distribute by wholesale drugs other than those specified in Schedule C, C(i) and X on the premises situated near Housing Board Colony, Bus Stand Road, Sangrur. The drug of "lorazepam", which has been recovered, it is submitted falls within the schedule "H" of the Drugs and Cosmetic Rules, 1945. It is, therefore, submitted that the Petitioner can store "lorazepam" under licence No. 19310 dated 8.6.2007, a copy of which the learned Counsel has produced in Court and the same is taken on record. A reference has also been made to the order dated 12.3.2010 (Annexure P4) passed by the Judge, Special Court, Sangrur whereby bail has been granted to the Petitioner in case FIR No. 215 dated 26.12.2009, registered at Police Station Sadar, Sunam for the offence u/s 22 of the Act. In the said order, a reference has been made to licence No. 19310 dated 8.6.2007. It was observed by the learned Judge, Special Court that it is evident that two inquiries were conducted in the case i.e one by Deputy Superintendent of Police, Sub Division, Sangrur who suggested for filing of cancellation report and another inquiry was conducted by Superintendent of Police, who also suggested for filing of cancellation report by observing that Anita Rani owned the store and Anil Kumar (Petitioner), her husband was working as a Salesman with her. It was, therefore, observed that since the drugs allegedly recovered from the possession of the applicant-accused was possessed under valid licence and invoice, he was admitted to bail.

5. The question whether the Petitioner was holding a valid licence or not in respect of the drug viz lorazepam, which has been recovered from him, is to be considered and gone into by the learned trial Court after evidence has been led. The Petitioner is in custody for the last eight months. The trial in case is likely to take time. The Petitioner has been involved in two similar cases in which he has been granted bail by this Court vide order dated 17.8.2009 (Annexure P2) and dated 12.3.2010 (Annexure P4). Besides, the Petitioner has filed a petition u/s 482 of the Code of Criminal Procedure for quashing the case FIR No. 37 dated 19.4.2009, registered at Police Station Longowal, Sangrur, in which notice of motion has been issued on 24.5.2010 (Annexure P3) and further proceedings before the trial Court have been stayed.

6. Keeping in view the facts and circumstances of the case, I am of the view that the Petitioner deserves to be admitted to bail. Accordingly, this petition is allowed and the Petitioner on his furnishing personal bond and surety to the satisfaction of learned Chief Judicial Magistrate, Sangrur shall be admitted to bail.