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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-15315-2025
Date of Decision: 08.04.2025

Ashok Kumar and another

...Petitioners

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Kushagra Beniwal, Advocate
for the petitioners.

Ms. Harpreet Kaur, A.A.G., Haryana.

ANOOP CHITKARA, J.

Complaint No.	Dated	Police Station	Sections
COMA-69	21.05.2019	-	27(b) (ii), 28, 27(d), 28(A) of Drugs and Cosmetics Act

1. The petitioners apprehending arrest in the complaint captioned above have come up before this Court under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023, [BNSS], seeking anticipatory bail.

2. In paragraph 10 and 11 of the bail petition, the accused declares that they have criminal antecedents but were acquitted.

3. The facts and allegations are being taken from the reply filed by the State, which reads as follows:

“2. That as a matter of fact, on dated 13.10.2017 at 12:55 PM, the team comprising of i) Sh. Sandeep Gahlain, the then Drugs Control Officer, Sirsa ii) Sh. Ram Kumar, ASI, P.S. Rania, visited the licensed premises of the firm M/ Sagar Medicos at Bhagat Singh Chowk, Rania where accused no.2 Jagdish Lal was present and he was found stocked for sale of scheduled drugs without any prescription of the RMP and without issuance of cash memos and also found stocked for sale of various types of habit forming drugs which are used for medical intoxication in the area, without any record of sale and purchase thereof. On enquiry the petitioner no.2 failed to explained the name and address of the person who whom the said drugs were purchased. Accordingly the drugs were sealed vide form no.17 and the same were packed accordingly with the seal of the team. Copy of the form was supplied to the petitioner no.2 against the acknowledgement signed by him. Subsequently form



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no.17-A was issued which was also signed by the petitioner no.2.”

4. The petitioner's counsel prays for bail by imposing any stringent conditions and contends that pre-trial incarceration would cause an irreversible injustice to the petitioner and their family.

5. The State's counsel opposes bail and refers to the reply.

6. Pre-trial incarceration should not be a replica of post-conviction sentencing. The evidence might be prima facie sufficient to launch prosecution or to frame charges, but this Court is not considering the evidence at that stage but is analyzing it for the stage of anticipatory bail. An analysis of the above does not justify custodial interrogation or pre-trial incarceration.

7. The Police did not arrest the petitioners; if they intended to arrest the petitioners, it was not impossible.

8. Given the above, the penal provisions invoked coupled with the prima facie analysis of the nature of allegations and the other factors peculiar to this case, there would be no justifiability for custodial interrogation or the pre-trial incarceration at this stage. Without commenting on the case's merits, in the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner makes a case for bail. This order shall come into force from the time it is uploaded on this Court's official webpage.

9. Given above, provided the petitioner is not required in any other case, the petitioner shall be released on anticipatory bail in the FIR captioned above subject to furnishing bonds to the satisfaction of the Arresting Officer, and if the matter is before a Court, then the concerned Court and due to unavailability before any nearest Ilaqa Magistrate/duty Magistrate. Before accepting the surety, the concerned Officer/Court must be satisfied that if the accused fails to appear, such surety can produce the accused.

10. While furnishing a personal bond, the petitioner shall mention the following personal identification details:

1.	AADHAR number	
2.	Passport number (If available) and when the attesting officer/court considers it appropriate or considers the accused a flight risk.	
3.	Mobile number (If available)	
4.	E-Mail id (If available)	

11. This order is subject to the petitioner's complying with the following terms.



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12. The petitioners are directed to join the investigation within seven days of uploading this order on the official webpage of the High Court of Punjab and Haryana and as and when called by the Investigator. The petitioners shall be in deemed custody for Section 27 of the Indian Evidence Act, 1872/ Section 23 of BSA, 2023. The petitioner shall join the investigation as and when called by the Investigating Officer or any Superior Officer and shall cooperate with the investigation at all further stages as required. In the event of failure to do so, the prosecution will be open to seeking cancellation of the bail. During the investigation, the petitioners shall not be subjected to third-degree, indecent language, inhuman treatment, etc.

13. In case the Investigator/Officer-In-Charge of the concerned Police Station arraigns another section of any penal offense in this complaint, and if the new section prescribes a maximum sentence that is not greater than the sections mentioned above, then this bail order shall be deemed to have also been passed for the newly added section(s). However, suppose the newly inserted sections prescribe a sentence exceeding the maximum sentence prescribed in the sections mentioned above; then, in that case, the Investigator/Officer-In-Charge shall give the petitioner notice of a minimum of seven days, providing an opportunity to avail the remedies available in law.

14. This bail is conditional, and the foundational condition is that if the petitioner indulges in any non-bailable offense, the State shall file an application for cancellation of this bail before the Sessions Court, which shall be at liberty to cancel this bail.

15. Any observation made hereinabove is neither an expression of opinion on the case's merits nor shall the trial Court advert to these comments.

16. A certified copy of this order would not be needed for furnishing bonds, and any Advocate for the Petitioner can download this order along with case status from the official web page of this Court and attest it to be a true copy. If the attesting officer wants to verify its authenticity, such an officer can also verify its authenticity and may download and use the downloaded copy for attesting bonds.

17. **Petition allowed** in terms mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

08.04.2025

Jyoti Sharma

Whether speaking/reasoned: Yes

Whether reportable: No.