



**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

CRM-M-24877-2024
Reserved on : 21.08.2024
Pronounced on : 05.09.2024

Dr. Vinit YadavPetitioner

Versus

State of HaryanaRespondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Argued by : Mr. Vikram Chaudhri, Sr. Advocate (through VC) with
Mr. Keshavam Chaudhri, Advocate and
Mr. Digvijay Singh, Advocate for the petitioner.

Mr. Chetan Sharma, DAG, Haryana.

MANJARI NEHRU KAUL, J.

1. The petitioner in the instant (**fourth**) petition is seeking the concession of bail under Section 439 of the Cr.P.C. in case FIR No.234 dated 04.05.2023 under Sections 420, 465, 468 of the IPC and Sections 22 and 32 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act') registered at Police Station Pinjore, District Panchkula.

2. The third bail petition filed by the petitioner, under **CRM-M-41613-2023** was brought before this Court for disposal alongside **CRM-M-2775-2024**, titled State of Haryana Vs. Vinit Yadav. The latter petition was filed by the State of Haryana, seeking to cancel the default bail granted to the petitioner by the learned Trial Court. During the pendency of the bail petition in this Court, the petitioner was granted default bail by the Trial Court vide order dated 10.11.2023,

**CRM-M-24877-2024****-2-**

which rendered the third bail petition before this Court infructuous. However, in the petition filed by the State of Haryana, this Court subsequently cancelled the default bail granted to the petitioner on 29.02.2024, based on the merits of the case, and directed the petitioner to surrender before the Trial Court.

3. On a pointed query by this Court, the learned Senior Counsel for petitioner was asked to explain any material change in circumstances following the cancellation of his bail by this Court on 29.02.2024. The learned Senior Counsel for the petitioner submitted that the investigation has since been completed, the charge sheet has been filed, and the petitioner has now been in custody for a total of 11 months, excluding the time he was out on default bail.

4. In addition, the learned Senior Counsel for the petitioner asserted that the prosecution's case primarily rests on the allegation that the petitioner was illegally operating a De-addiction Centre under registration/licence No. Hry.SJE-2019/17438, and that he was not authorized to stock and dispense Buprenorphine due to an invalid or expired licence, which however, was factually incorrect since the petitioner held a valid licence, No.Hry.SJE-2019/17438, which was operative until 11.09.2022; in anticipation of the expiry of the licence in September 2022, the petitioner promptly had applied for its renewal in August, 2022, ensuring compliance with all necessary formalities. In support, attention of this Court was drawn to Annexure P-4. It was further contended that on 17.01.2023, the relevant department requested the petitioner to deposit ₹5,000/- as a renewal fee, as



2024.PHHC:116565



CRM-M-24877-2024

-3-

evidenced in Annexure P-5. This fee was then promptly paid by the petitioner on 20.01.2023, which stands documented in Annexure P-6.

5. The learned Senior Counsel further argued that since the renewal process was initiated before the expiry of the original licence, the petitioner retained the authorization to stock and dispense all necessary medications, including Buprenorphine. Moreover, as per learned Senior Counsel the licence in question was obtained by the petitioner as a precautionary measure and was not even required since he was registered under the Mental Health Act, 1987 with licence No. SMHA/2019/1526, valid until 19.06.2024. Furthermore, according to Rule 6(3)(viii) of the Haryana De-addiction (Amendment) Rules, 2018, Psychiatric Nursing Homes and Hospitals holding a valid licence under the Mental Health Act, 1987, are exempt from obtaining a separate licence under these Rules. Therefore, it was asserted that this exemption was directly applicable to the petitioner, whose licence under the Mental Health Act, 1987 remains valid until 2024.

6. Furthermore, it was submitted by the learned Senior Counsel that the legality of stocking and dispensing Schedule-H drugs by a medical practitioner is currently under adjudication before this Court in a batch of writ petitions, including ***Dr. Ashwin Mohan Vs. Union of India and Others, CWP-1361-2015***. In these proceedings, the Assistant Drugs Controller of India affirmed that, based on recommendations from the Association of Psychiatrists, NDDTC, AIIMS, and NIMHANS, a circular was issued in 2019 by the Drug Controller of India, permitting the supply of Buprenorphine tablets to

**CRM-M-24877-2024**

-4-

Psychiatric Clinics and Hospitals, in addition to De-addiction Centres.

7. The learned Senior Counsel still further submitted that between the period when the petitioner was granted default bail by the learned Trial Court on 10.11.2023, and when this bail was subsequently cancelled by this Court on 29.02.2024 in CRM-M-2775-2024, he fully complied with all directions issued by the learned Trial Court and attended all proceedings without fail. Hence, it was prayed that keeping in view the long custody of 11 months of the petitioner, the investigation having been completed, and the charge sheet filed coupled with the extensive duration anticipated for the trial's completion and the petitioner already having lost his livelihood, on account of the closure of his De-addiction Centre, a humanitarian approach be adopted qua the petitioner's plea for bail.

8. Per contra, the learned State Counsel while vehemently controverting the submissions made by the learned Senior Counsel for the petitioner, at the out set challenged the maintainability of the present petition. The learned State Counsel argued that there had been no material change in circumstances since the default bail granted to the petitioner was cancelled on merits by this Court in CRM-M-2775-2024 on 29.02.2024, which was subsequently challenged by filing an SLP(Crl.) No(s).3519-3520/2024, before Hon'ble the Supreme Court, and which was dismissed on 18.03.2024 with Hon'ble the Supreme Court directing the petitioner to surrender before the Trial Court by 23.03.2024. However, the petitioner, thereafter, filed a miscellaneous application in the said SLP, requesting for an extension of time to



2024.PHHC:116565



-5-

CRM-M-24877-2024

surrender, which was granted, with the petitioner surrendering on 01.04.2024.

9. Learned State counsel submits that any delay in the trial was attributable to the petitioner himself as it was the learned defence counsel for the accused before the learned Trial Court who had sought as many as four adjournments when the matter was posted for consideration on charge on the dates 10.01.2024, 30.01.2024, 15.02.2024 and 14.08.2024. The learned State Counsel still further argued that charges were yet to be framed, and the case had now been adjourned to 02.09.2024 for consideration of charges by the Trial Court, upon the request of none other than the defence counsel. The learned State Counsel further contended that if the petitioner was granted bail at this stage, there was a strong likelihood that he would attempt to influence or manipulate witnesses, particularly private individuals whose OPD cards were found during the raid at the petitioner's De-addiction Centre, as the prosecution evidence had not yet commenced.

10. Additionally, the learned State Counsel emphasized that the default bail granted to the petitioner was cancelled by this Court, taking into account the seriousness of the allegations against him — the misuse and illegal diversion of narcotic drugs, specifically Buprenorphine, which is a strictly regulated substance due to its high potential for abuse, under the guise of his professional role as a doctor, and while operating a De-addiction Centre.

11. The learned State Counsel still further argued that the



2024.PHHC:116565



CRM-M-24877-2024

-6-

operation of the petitioner's De-addiction Centre was not only unethical but also illegal, as the Centre's licence had expired seven months before the raid in question. While the learned State Counsel acknowledged that Rule 6(3)(viii) of the relevant Rules provides certain exemptions for Psychiatric Nursing Homes and Hospitals, however, he submitted that these exemptions were not unconditional. They specifically mandate that all such De-addiction Centres/Institutions be registered with the Licensing Authority. This registration as per the learned State Counsel was a crucial regulatory safeguard intended to ensure that these facilities operated within the bounds of the law. The learned State Counsel contended that the registration certificate relied upon by the petitioner (Annexure P-4) had expired on 11.09.2022, and the petitioner's application for renewal did not constitute a valid or effective renewal. At the time of the raid on his Centre, it was operating without the necessary legal authorization, constituting a clear violation of the rules and regulations governing De-addiction Centres.

12. The learned State Counsel also contended that the continued administration and dispensation of Buprenorphine without a valid licence by the petitioner was, therefore, a serious offence, demonstrating a willful disregard for the law, especially considering the rampant drug addiction and trafficking issues that need to be addressed urgently and require strict enforcement. Learned State counsel has further submitted that it is in this background, the circular dated 28.03.2019 issued by the Drug Controller General of India, as referred to by the learned Senior Counsel for the petitioner, had already been



CRM-M-24877-2024

-7-

stayed by a Division Bench of this Court in *CWP-PIL-105-2019*, *Paramjeet Singh Ranu Vs. Union of India and Others*, vide order dated 10.05.2019.

13. Finally, the learned State Counsel argued that the quantity of Buprenorphine recovered from the petitioner's Centre was substantial, amounting to over 27,000 tablets. This quantity, confirmed by the FSL report, categorically fell under the classification of 'commercial quantity' under the NDPS Act. The recovery of such a large amount triggered the stringent provisions of Section 37 of the NDPS Act, which imposed rigorous conditions for granting bail in cases involving commercial quantities of narcotic substances. The learned State Counsel concluded by praying that, given the huge quantity involved and the severity of the allegations, the petitioner was not entitled to bail, as the law clearly aimed to prevent the misuse of narcotic substances and to ensure that individuals accused of such offences were not granted bail without satisfying the strict requirements set forth by the NDPS Act.

14. I have heard learned counsel for the parties and perused the relevant material on record.

15. It is pertinent to mention that the default bail granted to the petitioner by the learned Trial Court vide order dated 10.11.2023, was cancelled by this Court on merits through a detailed order dated 29.02.2024. The said order cancelling the bail of the petitioner was further upheld by Hon'ble the Supreme Court in SLP(Crl.) No(s).3519-3520/2024 vide order dated 18.03.2024. It also needs to be pointed out

**CRM-M-24877-2024****-8-**

when the previous petition was dismissed by this Court, challan already stood presented, however, charges had not been framed.

16. Learned Senior Counsel representing the petitioner has failed to bring to the notice of this Court any material change in circumstances since the passing of the aforementioned order, particularly when it is a matter of record that the charges have not yet been framed in the present case by the learned Trial Court.

17. The mere delay in proceedings before the learned Trial Court cannot be construed as benefiting the petitioner, especially since it is a matter of record that learned defence counsel for the petitioner before the learned Trial Court has sought no less than four adjournments on dates when the matter was listed for consideration of charges, on 10.01.2024, 30.01.2024, 15.02.2024 and 14.08.2024.

18. The allegations against the petitioner are grave, as he is accused of the illicit distribution of narcotic substances under the guise of running a De-addiction Centre, which itself was operating without any valid licence. It is also pertinent to emphasize that general public reposes immense trust in the medical profession, particularly when seeking treatment. The ethical standards expected from medical practitioners, especially those operating De-addiction Centre, are exceedingly high, given that they deal with vulnerable patients who are susceptible to relapse. In this context, the allegation that a medical practitioner entrusted with care of such vulnerable individuals, has been involved in diverting narcotic substances and facilitating their illegal distribution in the community, is one that warrants serious



CRM-M-24877-2024

-9-

consideration.

19. This Court cannot turn a blind eye to the potential social consequences of these allegations, as they could contribute to perpetuating a cycle of drug dependency and addiction, in a country already grappling with scourge of narcotics. Furthermore, the quantity of narcotic substances allegedly recovered from the De-addiction Centre of the petitioner far exceeds the limit quantity classified as 'commercial' under the NDPS Act, thereby invoking the stringent provisions of Section 37 of the NDPS Act. In this regard it would be relevant to refer to the observations made by Hon'ble the Supreme Court in *The State of Meghalaya Vs. Lalrinluanga Sailo & another (Special Leave to Appeal (Crl.)16021/2023, decided on 16.07.2024)*, which are as under:-

“6. While considering the cases under NDPS Act, one cannot be oblivious of the objects and reasons for bringing the said enactment after repealing the then existing laws relating to the Narcotic drugs. The object and reasons given in the acts itself reads thus: -

“An act to consolidate and amend the law relating to narcotic drugs, to make stringent provisions for the control and regulation of operations relating to narcotic drugs and psychotropic substances, to provide for the forfeiture of property derived from, or used in, illicit traffic in narcotic drugs and psychotropic substances, to implement the provisions of the International Convention on Narcotic Drugs and Psychotropic Substances and for matters connected therewith.”

In the decision in Collector of Customs, New Delhi v. Ahmadaliev Nodira¹, the three judge bench of this Court considered the provisions under Section 37(1)(b) as also 37(1)(b)(ii) of the NDPS Act, with regard to the expression “reasonable grounds” used therein. This Court held that it means something more than the prima facie grounds and that it contemplates substantial and probable causes for believing that the accused is not guilty of the alleged offence. Furthermore, it was held that the



CRM-M-24877-2024

-10-

reasonable belief contemplated in the provision would require existence of such facts and circumstances as are sufficient in themselves to justify satisfaction that the accused is not guilty of the alleged offence.

As relates the twin conditions under Section 37(1)(b)(ii) of the NDPS Act, viz., that, firstly, there are reasonable grounds for believing that the accused is not guilty of such offence and, secondly, he is not likely to commit any offence while on bail it was held therein that they are cumulative and not alternative. Satisfaction of existence of those twin conditions had to be based on the 'reasonable grounds', as referred above."

20. In the light of the foregoing facts and circumstances and specially considering that there has been no change whatsoever in the circumstances since the dismissal of the previous petition—order that was upheld by Hon'ble the Supreme Court—the petitioner does not merit the grant of regular bail at this stage.

21. Accordingly, the instant petition is dismissed.

22. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

05.09.2024

Vinay

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No