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

+ BAIL APPLN. 2236/2024 & CRL.M.A. 18975/2024

ADITYA KRISHNA

.....Petitioner

Through: Mr. Aditya Aggarwal, Ms. Kajol Garg, Mr. Naveen Panwar, Mr. Mohd. Yasir, Advocates.

versus

STATE NCT OF DELHI

.....Respondent

Through: Mr. Yudhvir Singh Chauhan, APP for the State.
SI Ashish Sharma, ISC, Crime Branch, Chanakyapuri, New Delhi

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

29.07.2024

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1. Petitioner has approached this Court seeking bail in FIR No. 59/2024, dated 12.03.2024, registered at Police Station Crime Branch, for offences under Sections 274/275/276/420/468/471/120B/34 IPC.
2. The facts, leading to the present Petition are that on 09.03.2024 secret information regarding a person, namely, Vipnil Jain @ Bablu, procuring empty vials and other raw material for preparing spurious anti-cancer injections such as Keytruda, Opdyta, Opdivo etc., from his associate namely Parvez Malik was received at Crime Branch. It is stated that on the basis of the said information, separate teams were formed to unearth the whole nexus and nab the culprits. It is stated that since, the information was about a syndicate indulged in manufacturing of spurious medicines, the Drugs Department, Govt. of NCT of Delhi was informed and they were asked to

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join the team. It is stated that on 11.03.2024, the joint team of Crime Branch and Drugs department conducted a raid at Flat No 1101, Block -2, Eleventh Floor, CSP Units DLF Capital Greens, 15 Shivaji Marg, Moti Nagar, New Delhi 110015, where two persons namely Vipnil Jain S/o Late Sh. Pawan Kumar Jain R/o H. No. T 21, Gali No 8, Gautampuri, New Seelampur, Bhajanpura, Delhi 110053 and Suraj Shat S/o Kartik Shat, R/o G 315/5, Gali No 15, West Karawal Nagar, North East Delhi-110094 were found filling the empty vials labeled as Nivolumab 10 mg/mL (OPDYTA) and PEMBROLIZUMAB INJECTION (KEYTRUDA) with the liquid of Fluconazole injection USP2mg/ml (Forcan) and dextrose with a needle and syringe followed by sealing the vials using a sealing and capping machine kept in the said premises. It is stated that the team of Drug Inspectors took three sets of samples drawn from the vials recovered from the said premises for lab testing. It is stated that both the accused were arrested and the present FIR was registered. On the basis of disclosure statements of Vipnil Jain and Suraj Shat, raids were conducted at different locations by separate teams and a huge quantity of spurious anti- cancer injections, empty vials, packaging boxes, leaflets, vial rubber caps, vials aluminum caps etc. were recovered and number of persons were apprehended and 12 accused persons, including the Petitioner herein, were arrested from different places.

3. The allegation against the Petitioner herein is that the anti-cancer injections were being supplied to the Petitioner, who is running a pharmacy shop in Muzaffarpur, Bihar in the name of Popular Medicine. It is stated that the Petitioner used to receive a major chunk of supplies from co-accused Neeraj and Tushar. It is stated that apart from selling these anti-cancer injections in Bihar, the Petitioner herein used to further supply these



spurious anti-cancer injections to one Nikhil Jain, who is based in Pune; one Sagar Mehta, who is based in Mumbai and one Darshan Soni, who is based in Noida.

4. The Petitioner was arrested on 13.03.2024 and is in custody since then. Charge-sheet has been filed.

5. Learned Counsel for the Petitioner states that if convicted, the maximum punishment that can be awarded to the Petitioner for offences under Sections 274, 275 & 276 IPC is six months and for offences under Sections 308 & 408, the maximum punishment that can be awarded to the Petitioner is three years and only for the offence under Section 420 IPC the maximum punishment is seven years. He states that no injection has been recovered from the Petitioner and the case against the Petitioner is based on disclosure statements and WhatsApp chats and the Call Detail Records which are all documentary in nature and, therefore, there is no possibility of the Petitioner tampering with evidence. He, therefore, states that no useful purpose would be served in keeping the Petitioner in further custody.

6. *Per contra*, learned APP for the State vehemently opposes the Bail application stating that the Petitioner is a part of a well-organized cartel which manufactures and supplies spurious anti-cancer medicines pan India. He states that the Petitioner was receiving a major chunk of supplies from various co-accused and he was instrumental in distributing the same. He states that the case against the Petitioner is not restricted only to WhatsApp chats and disclosure statements. He states that there is a money trail and various other documentary evidences to connect the Petitioner to the offence. He further states that the Drug Inspectors had drawn samples from the manufacturing facility and on analysis of the same it was found that the



sample is not of standard quality as defined in the Drugs and Cosmetics Act, 1940 as the sample was found to be spurious under Section 17B (d) of the Drugs and Cosmetics Act, 1940 due to non-conformity of identification test. He, therefore, states that bail ought not to be given to the Petitioner herein.

7. Heard the learned Counsel for the Petitioner and the learned APP for the State.

8. In Prasanta Kumar Sarkar v. Ashis Chatterjee, (2010) 14 SCC 496, the Apex Court has laid down the parameters for granting or refusing bail to an accused and the same reads as under:

“i. whether there is any prima facie or reasonable ground to believe that the accused had committed the offence;

ii. nature and gravity of the accusation;

iii. severity of the punishment in the event of conviction;

iv. Danger of the accused absconding or fleeing, if released on bail;

v. character, behavior, means, position and standing of the accused;

vi. Likelihood of the offence being repeated;

vii. Reasonable apprehension of the witnesses being influenced; and

viii. Danger, of course, of justice being thwarted by grant of bail.”

9. In the present case, the Petitioner is in custody since 13.03.2024.



Charge-sheet has been filed. The evidence is primarily documentary in nature and is already in the custody of Police. Considering the fact that that the evidence is primarily documentary in nature, the possibility of the Petitioner tampering with evidence is very remote and since most of the witnesses are official witnesses, the chance of the Petitioner threatening the witnesses is also very remote.

10. In view of the above and also considering the law laid down by the Apex Court, this Court is inclined to grant bail to the Petitioner on the following conditions:

- a) The Petitioner shall furnish security in the sum of ₹1,00,000/- with two sureties of the like amount to the satisfaction of the Trial Court/Duty Magistrate.
- b) The Petitioner shall not leave NCT of Delhi without prior permission of the concerned Court.
- c) The petitioner is directed to attend all the proceedings before the Trial Court.
- d) The Petitioner shall report to the concerned Police Station every Monday, Wednesday and Friday at 10:00 AM and he should be released after completing all the formalities within an hour.
- e) The Petitioner is directed to give his mobile numbers to the Investigating Officer and keep them operational at all times.
- f) The Petitioner is directed not to indulge in the business of supplying medicines till the completion of trial.
- g) The Petitioner shall not, directly or indirectly, tamper with evidence or try to influence the witnesses.



h) Violation of any of these conditions will result in the cancellation of the bail given to the petitioner.

11. It is made clear that the observations made in this Order are only for the purpose of grant of bail and cannot be taken into consideration during the trial.

12. With these directions, the bail application is disposed of along with the pending applications, if any.

SUBRAMONIUM PRASAD, J

JULY 29, 2024

Rahul