

DRUGS CONTROL OFFICERS (I) WELFARE ASSOCIATION

(Regd.No. 634 of 2022)

E-mail: dcoidcwa@gmail.com Website: www.dcoiwa.com

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Tapan Choudhry

Cell: 9230610226 - West Bangal

Joint Secretaries:

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Pooran Chand

Cell: 9760366100 - Uttar Pradesh

Dr. Mrinal Kanti Sarkar

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Mrs. Kanchan Sinha

Cell: 9774548986 - Tripura

Ibom Ete

Cell: 8157045591 - Arunachal Pradesh

Date: 28-11-2022,

Place: Hyderabad.

NOTE FROM PRESIDENT:

A major spurious Drug Racked Busted in Himachal Pradesh.

DCOIWA congratulates Shri Navneet Marwahajee, Drugs Controller, Himachal Pradesh and his team consisting of Lovely Thakur, Anoop Sharma, Akshay Kumar, Harish Kumar, Abhilash Kumar, Suresh Kumar, Basant Mittal (all drugs inspectors from Baddi, HP) and Kushal Kumar Drugs Inspector, Solan HP. First time in India, after given arrest powers to Drugs Control Officers, the team Himachal has arrested Mr. Mohit Bansal, R/o Agra, UP on 22-11-2022 for manufacturing and selling of spurious drugs pertaining to multinational branded drugs. Spurious drugs worth of about Rs.2 crores along with huge quantities of Raw materials, Packing materials and machinery were seized during the raid. The raid was continued till 28th Nov.2022 and based on the inputs given by the arrested Bansal, more raids were conducted and arrested more. And the searches were still under progress. The Suppliers of Raw materials and Packing materials were also raided and arrested, reports says.

Some of the leading branded drugs (belongs to Cipla, Zydus, USV etc) that were seized includes MONTAIR 10, ATORVA 10, ATORVA 20, TEXLOC 40, ZERODOL, TH4, TH8, DYTOR 10, ROSEDAY 10, TELVAS 40 & URISPAS etc.

According to sources, this is the 4th biggest spurious, this is the 4th biggest spurious drugs case busted in Himachal Pradesh in last 2 years under the leadership of dynamic drugs controller Shri Marwahajee.

All the members of Drugs Control Officers (I) Welfare Association sincerely congratulates entire team involved and feeling proud that they are real heroes who saved lives of lakhs of innocent diseased citizens of India.

Mohit Bansal, R/o Agra, UP was arrested by Himachal Drugs Control Officers on 22-11-22 for manufacturing spurious drugs at Baddi. Spurious medicines worth of more than Rs.2 cr , raw materials, machines were seized by the officers. During further interrogation and investigation, there more accused were arrested and till 28-11-2022 and successfully revoked spurious drugs before they reach the public and patient at Agra UP. After taking remand of accused persons by HP drugs control officers, many more locations were shared

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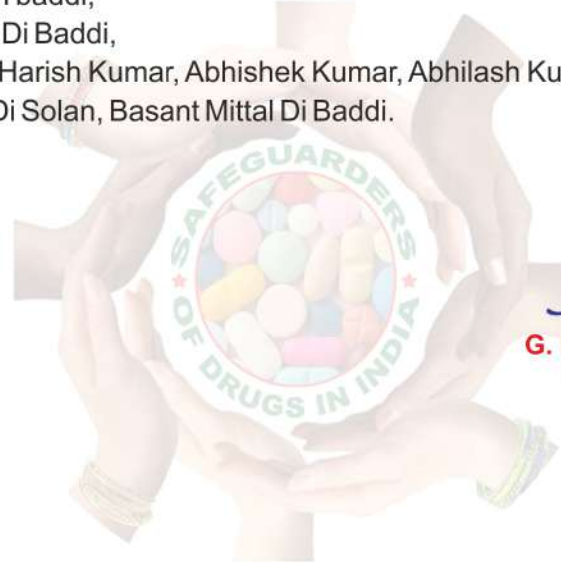
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by accused and search is underway along with UP Drugs Control department. Suppliers of raw material , packing material foil are also disclosed by the accused during remand.

Drugs like montair 10, Atorva10 ,Atorva 20, Texloc 40, Zerodol TH4 and TH8, Dyltor10, Roseday 10 , Telvas 40, Urispasetc were recovered by team before they reached the public after taking remand of accused. They are big brand of Cipla, Zydus, USV and other companies. This is 4th beg case of spurious drugs busted by HP drug department in last 2 years by keeping a strict vigil over the market.

Lovely Thakur DI baddi,
Anoop Sharma, Di Baddi,
Akshay Kumar, Harish Kumar, Abhishek Kumar, Abhilash Kumar, Suresh Kumar, Kushal Kumar, Di Solan, Basant Mittal Di Baddi.




G. Koteswar Rao
(President)

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In the Court of Mohit Bansal, Addl. C.J.M., Nalagarh,
District Solan, Himachal Pradesh.

State of H.P through Drug Inspector Versus Atul Gupta etc.

23.11.2022.

Present:- Accused persons namely, Mohit Bansal s/o Vinod Bansal, Atul Gupta s/o Vinod Gupta and Vijay Kaushal s/o Rattan Kaushal are produced in the custody of Sh. Lovely Thakur, Drug Inspector.

Sh.D.K. Kaushal, Id. Counsel for accused persons. (POA got attested).

The Drug Inspector has moved the present application seeking 05 days remand of above named accused persons.

2. Before going into the merits of application, brief facts are summarized as follows:-

"On dated 22.11.2022, huge quantity of spurious medicines were recovered from vehicle bearing registration No. UP80FC7530 at Baddi Police Barrier, Baddi, District Solan, H.P from one of the accused namely, Mohit Bansal who was resident of Agra. All the recovered medicines were seized on Form No.16 in the presence of accused, witnesses and photographs were also taken. The detailed spot report/panchnama was also prepared regarding the seizure of said spurious drugs. On further investigation, the godown of said accused situated at Shop No.13, Mansa Devi Complex, Near Sikka Hotel was also raised in the presence of witnesses and police officials. The other accused persons namely, Atul Gupta and Vijay Kaushal were also present there and were found to be involved in the manufacturing, sale and distribution of spurious medicines alongwith the accused Mohit Bansal. On search of premises, huge stock of spurious allopathic medicines, semi-finished medicines, packaging material, foils, raw materials etc. were recovered from the said godown which was

accordingly seized. The said accused namely, Mohit Bansal was also running a medical store at Agra regarding which details are to be extracted. Keeping in view that spurious medicines were recovered from accused persons, they were accordingly, arrested on 22.11.2022 and memo of arrest was prepared. Intimation about their arrest was also given to their family members/ friends as required by the accused persons. They are very clever persons and since they are involved in the manufacturing and sale of spurious medicines, therefore, the Drug Inspector intends to obtain further details from them. Moreover, the accused Mohit Bansal had also purchased raw material from local persons, therefore, for that purpose, remand is required. The offence under which the accused are involved is punishable under Section 27 (c) of the Drugs and Cosmetics Act, 1940 (hereinafter referred to as the 'Act') is cognizable and non-bailable one, therefore, it is prayed that the accused persons be remanded into custody for 05 days."

3. All the accused persons have again been apprised of their ground of arrest. Apparently, intimation about their arrest has also been given to their near relatives. They had also been medically examined. Ld. Counsel appearing for the accused persons got their signatures attested on the power of attorney.

4. I have heard the Drug Inspector and Ld. Counsel for accused persons and have perused the case file with care.

5. As per the applicant, huge quantity of spurious medicines were recovered from the vehicle bearing registration No. UP80FC7530 on Baddi Police Barrier, Baddi, District Solan, H.P from one of the accused namely, Mohit Bansal.

6. The memo qua that effect was prepared and when the godown of the said accused at Shop No.13, Mansa Devi

Complex, Near Sikka Hotel was raided, the other accused namely, Atul Gupta and Vijay Kaushal were also present there and from the said premises as well, huge stock of spurious allopathic drug, semi-finished medicines, packaging material, foils and raw material etc. were recovered which were taken into possession. The details are further required to be extracted, therefore, it has been prayed that they be remanded under the custody of Drug Inspector so that same could be done.

7. Now the foremost question which requires determination in the present case is to whether the Drug Inspector has power to arrest a person on account of commission of offence punishable under the Drugs and Cosmetics Act, 1940. The powers of Inspectors have been clearly mentioned under Section 22 of the Act. There is no specific mention about arrest in the same but Section 22(1) (d) provides that the Inspector may exercise such powers as may be necessary for carrying out the purpose under chapter (IV) or any rule made thereunder. Apparently, the accused persons have been implicated under Section 27(c) of the Act. The provision is quoted for the sake of convenience:-

"Section 27; Whoever himself or by any other person on his behalf, manufactures for sale or for distribution or sells or stocks or exhibits or offers for sale or distributes (c) any drug deemed to be spurious under Section 17(B) but not being a drug recovered to in clause (a) shall be punishable with imprisonment which shall not be less than 03 years but which may extend to 05 years and with fine which shall not be less than ₹5000/-."

8. The aforesaid offence is provided for drugs found spurious in view of Section 17 (B) of the Act which provides as under:-

"Spurious drugs :- For the purpose of this Chapter, a drug shall be deemed to be spurious,— (a) if it is manufactured under a name which belongs to another drug; or (b) if it is an imitation of, or is a substitute for, another drug or resembles another drug in a manner likely to deceive or bears upon it or upon its label or

container the name of another drug unless it is plainly and conspicuously marked so as to reveal its true character and its lack of identity with such other drug; or (c) if the label or container bears the name of an individual or company purporting to be the manufacturer of the drug, which individual or company is fictitious or does not exist; or (d) if it has been substituted wholly or in part by another drug or substance; or (e) if it purports to be the product of a manufacturer of whom it is not truly a product."

9. Further, Section 36AC provides that notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), (a) every offence, relating to adulterated or spurious drug and punishable under clauses (a) and (c) of sub-section (1) of section 13, clause (a) of sub-section (2) of section 13, sub-section (3) of section 22, clauses (a) and (c) of section 27, section 28, section 28-A, section 28-B and sub-sections (1) and (2) of section 30 and other offences relating to adulterated drugs or spurious drugs, shall be cognizable.

10. Before proceeding further, reference can also be made to the latest case titled as "Union of India versus Ashok Kumar Sharma and others, Criminal Appeal No. 200 of 2020" decided by the Hon'ble Apex Court in which similar corollary arose as to whether the Inspector under the Drugs and Cosmetics Act has power to arrest a person in connection with an offence in Chapter (IV) of the Act. The said controversy has been set at rest by the Hon'ble Apex Court and the findings given may be quoted for the sake of convenience:-

"I. In regard to cognizable offences under Chapter IV of the Act, in view of Section 32 of the Act and also the scheme of the Cr.P.C, the Police Officer cannot prosecute offenders in regard to such offences. Only the person mentioned in Section 32 are entitled to do the same.

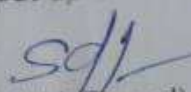
II. There is no bar to the Police Officer, however, to investigate and prosecute the person where he has committed an offence, as stated under Section 32(3) of the Act, i.e., if he has committed any cognizable offence under any other

officers."

11. From the aforesaid, it can be made out that the Drug Inspector in fact has power to arrest in relation to offence under Chapter IV of the Act. However, he is required to ensure the compliance of directions as contained in D.K. Basu's case and also Section 58 of Cr.P.C. are made.

12. In the instant case, huge quantity of spurious medicines were recovered from vehicle bearing No.UP80FC7530 at Baddi Police Barrier, Baddi, District Solan, H.P and on further search of godown belonging to one of the accused namely, Mohit Bansal, other accused persons namely, Atul Gupta and Vijay Kaushal were also found present there and huge stock of allopathic medicines, semi-finished medicines, packaging material, foils and raw materials etc. were recovered. Certainly, such like offences are on rise and are required to be curbed with stern hand. If it is not done, it may put public health and safety at stake. From the record, it transpires that the memo regarding arrest of accused persons was duly prepared and intimation was also given to their near relatives. They were also got medically examined, therefore, necessary directions have duly been complied.

13. As regard the prayer of applicant is concerned, remand has been sought on the ground of extracting details from the accused persons. Certainly, the said prayer seems genuine since huge quantity of spurious medicines were recovered from them. Therefore, considering the facts and circumstances, all the accused persons namely, Mohit Bansal, Atul Gupta and Vijay Kaushal are remanded into custody of Drug Inspector till 26.11.2022 on which date, they be produced before this court at 10:00 A.M sharp for further orders. They be got medically examined after every 48 hours. Application stands disposed of. Papers be put up on 26.11.2022 for further orders.


(Mohit Bansal)

Addl. C.J.M., Nalagarh.