

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

212

**CRM-M-23077 of 2018
Date of decision: 31.05.2018**

Ramandeep Singh @ Raman

...Petitioner

Vs.

State of Punjab

...Respondent

CORAM:HON'BLE MR. JUSTICE RAJ SHEKHAR ATTRI

Present: Mr. Sandeep Godara, Advocate
for the petitioner.

Mr. Sandeep Kumar, DAG, Punjab.

RAJ SHEKHAR ATTRI, J.(ORAL)

This is an application under Section 439 of Code of Criminal Procedure for releasing the petitioner on bail in case FIR No. 86, dated 23.04.2017, under Section 22 of Narcotic Drugs and Psychotropic Substances Act registered at Police Station Tanda, District Hoshiarpur.

It is submitted that form M-29 was not completed on the spot and to substantiate this fact, counsel for the petitioner has placed reliance upon statement of Inspector Talwinder Kumar who has been examined as PW.1.

Heard.

The recovery being of commercial quantity, there is bar under Section 37 of the NDPS Act, for the release of accused on bail in such cases. This Court does not agree with the submission of the counsel for the petitioner that the provisions of Section 37 of the NDPS Act are not applicable on account of lacuna and latches in recovery. In a recent judgment Hon'ble the Supreme Court in case Satpal Singh Vs. State of Punjab 2018 AIR(SC)2011 has discussed in detail with regard to bail in commercial quantity of the contraband which read as under:-

3. Section 37 of the NDPS Act reads as follows:-

"Offences to be cognizable and non-bailable – (1)

Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) -

- (a) every offence punishable under this Act shall be cognizable;
- (b) no person accused of an offence punishable for [offences under section 19 or section 24 or section 27A and also for offences involving commercial quantity shall be released on bail or on his own bond unless -
 - (i) the Public Prosecutor has been given an opportunity to oppose the application for such release, and
 - (ii) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail. (2) The limitations on granting of bail specified in clause (b) of sub-section (1) are in addition to the limitations under the Code of Criminal Procedure, 1973 (2 of 1974) or any other law for the time being in force, on granting of bail.]" (Emphasis supplied)

4. Under Section 37 of the NDPS Act, when a person is accused of an offence punishable under Section 19 or 24 or 27A and also for offences involving commercial quantity, he shall not be released on bail unless the Public Prosecutor has been given an opportunity to oppose the application for such release, and in case a Public Prosecutor opposes the application, the court must be satisfied that there are reasonable grounds for believing that the person is not guilty of the alleged offence and that he is not likely to commit any offence while on bail. Materials on record are to be seen and the antecedents of the accused is to be examined to enter such a satisfaction. These limitations are in addition to those prescribed under the Cr.P.C. Or any other law in force on the grant of bail. In view of the seriousness of the offence, the law makers have consciously put such stringent restrictions on the discretion available to the court while considering application for release of a person on bail."

No case is made out to grant concession of bail.

Dismissed.

(RAJ SHEKHAR ATTRI)
JUDGE

May 31, 2018
Poonam (II)

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No