

215 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-43537-2018

Date of decision: December 11, 2018

Jagdeep Singh

....Petitioner

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ SHEKHAR ATTRI

Present: Mr. Parveen Chauhan, Advocate
for the petitioner.

Mr. C.L. Pawar, Senior DAG, Punjab.

RAJ SHEKHAR ATTRI, J.(ORAL)

The present petition has been filed under Section 439 Code of Criminal Procedure for grant of regular bail to the petitioner in case FIR No.0118 dated 25.05.2017 registered for the offence punishable under Section 22 of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the Act') at Police Station Lambi, District Sri Muktsar Sahib.

The recovery effected from the petitioner falls within commercial quantity of contraband. Therefore, provisions under Section 37 of the Act is applicable. In a recent judgment Hon'ble the Supreme Court in case *Satpal Singh Vs. State of Punjab, 2018(5) 519* 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 regular bail.

Petition is dismissed.

However, learned trial court is directed to expedite the trial by giving short adjournments and decide the same within four months.

The concerned Senior Superintendent of Police is also directed to produce the entire witnesses before the learned trial court on the date fixed by that court. On his failure to do so, he will appear personally and submit the explanation.

(RAJ SHEKHAR ATTRI)
JUDGE

December 11, 2018
m. sharma

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