

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

(Heard through VC)

CRM-M-18941 of 2020 (O&M)
Date of Decision: September 02, 2020

Rattan Lal

...Petitioner

Versus

State of Punjab

...Respondent

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Abhimanyu Kalsy, Advocate
for the petitioner.

Ms. Rashmi Attri, AAG Haryana.

JAISHREE THAKUR, J. (Oral)

1. The instant petition has been filed under Section 438 Cr.P.C. for grant of anticipatory bail to the petitioner in FIR No.07 dated 15.01.1997, registered under Section 18 of NDPS Act at Police Station Sarabha Nagar, District Ludhiana.
2. Learned counsel for the petitioner would contend that the petitioner herein has been falsely implicated in the present case and he has been in custody for a period of 01 year, 04 months and 25 days and the trial is not likely to conclude in a while.
3. Per contra, learned counsel for the respondent-State, on instructions from the Investigating Officer, opposes the grant of regular bail

to the petitioner, while contending that the FIR was registered in the year 1997 against the petitioner for recovery of 07 kg of opium, which is a commercial quantity. It is also argued that after the petitioner was released on regular bail, he disappeared in Rajasthan and was declared as proclaimed offender and it is with a great difficulty that he has been located after a period of 20 years. It is submitted that if the petitioner is allowed bail, it will be very difficult to procure his presence during the trial.

4. I have heard learned counsel for the parties and have gone through the pleadings of the case.

5. Admittedly, the contraband recovery from the petitioner falls under the commercial quantify. Section 37 of the NDPS Act bars the court from granting bail to the accused for offence involving the commercial quantity unless either of the two conditions contemplated in the said section is satisfied. A similar view has been taken by the Apex Court in the case of ***State of Kerala etc. vs. Rajesh etc., 2020(1) RCR (Criminal) 818***. In the instant case, either of the two conditions as contemplated in Section 37 of the NDPS Act is not satisfied. Under these circumstances, this court is not inclined to allow regular bail to the petitioner. Accordingly, the instant petition is hereby dismissed with a direction to the trial court to try to expedite the trial, preferably within a period of 18 months from the date of receipt of this order.

September 02, 2020

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(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No