

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

104+216

CRM-M-37484 of 2020 (O&M)

Date of decision:17.08.2021

Deep Sing

... Petitioner

Vas.

State of Punjab

... Respondent

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Rahul Rampal, Advocate
for the petitioner.

Mr. Sandeep Singh Deol, DAG, Punjab.

SUVIR SEHGAL, J. (Oral)

The Court has been convened through video concerning due to
Covid-19 pandemic.

CRM No.25085 of 2021

Application is allowed.

Zimni orders are taken on record as Annexure P-3 collectively.

CRM-M-37484 of 2020

The petitioner is seeking regular bail in case FIR No.97 dated
07.08.2020 registered under Section 22 of [Narcotic Drugs and Psychotropic
Substances Act, 1985 \(for short "NDPS Act"\)](#) at Police Station Sadar
Rajpura, District Patiala (Annexure P-1).

As per the prosecution version, the FIR (Annexure P-1) came to
be registered when a car was stopped on suspicion and two youth, namely,

Jasvir Singh, who was on the driver seat and Deep Singh (present petitioner), who was on the navigator seat were apprehended and recovery of 250 strips and 350 strips of Clovidol, respectively, was effected from them. The petitioner was arrested on the spot.

Counsel for the petitioner has contended that the petitioner, who is running a sweets shop, has been falsely framed. He submits that there was non-compliance of the mandatory provisions of the NDPS Act at the time of search and seizure. He submits that the petitioner, who is in custody for the last one year, deserves to be released on bail as the trial is not progressing.

Per contra, State counsel, upon instructions from ASI Darshan Singh, has opposed the petition and submitted that the contraband has been found to be Tramadol Hydrochloride weighing 1.45 kg (approx.) which falls within the category of commercial quantity and the petitioner does not deserve to be released on bail. As per his instructions, the challan has been presented on 23.12.2020, though the charge is yet to be framed and the next date before the trial Court is 20.08.2021.

I have considered the submissions of counsel for the parties.

Hon'ble Supreme Court in **State of Kerala Vs. Rajesh (2020) 12 SCC 122** has held that Section 37 of the NDPS Act starts with a non-obstante clause and unless the twin conditions laid down therein are satisfied, accused cannot be released on bail. Besides giving an opportunity to the prosecution to oppose the petition, the Court is required to be

satisfied that there are reasonable grounds for believing that the accused is not guilty of the offence. No such material has been placed on the record nor could it be brought forth during the course of arguments to satisfy this Court of the probable innocence of the accused-petitioner. The petitioner has not been able to explain as to how the recovery has allegedly been shown to be falsely effected from him. Rigor of Section 37, *ibid* is clearly attracted and the concession of bail cannot be extended to the petitioner.

The petition is accordingly dismissed.

It is clarified that any observation made hereinabove shall not be construed to be a reflection of opinion on the merits of the case.

(SUVIR SEHGAL)
JUDGE

August 17, 2021
savita

<i>Whether Speaking/Reasoned</i>	<i>Yes</i>
<i>Whether Reportable</i>	<i>Yes</i>