

CRM-M-43753-2020

Date of Decision: 08.01.2021

AMANDEEP SINGH @ AMAN

... PETITIONER

V/S

STATE OF PUNJAB

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Umesh Sharma, Advocate for the petitioner.
Mr. Sandeep Vermani, Addl. AG Punjab.

*(The case has been taken up through video conferencing on
account of Covid-19 pandemic)*

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VIVEK PURI, J. (ORAL)

Petitioner has prayed for grant of regular bail in case FIR No. 78 dated 06.05.2018 registered under Section 22 of Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station Model Town, Hoshiarpur, District Hoshiarpur.

Briefly, the FIR has been registered in pursuance of recovery of 19,800 tablets of Alprazolam and 11,000 tablets of Tramadol which the petitioner was carrying while driving car bearing registration No. PB-08-AP-7767.

It has been contended by learned counsel for the petitioner that the petitioner is in custody for a period exceeding two years and only two witnesses have been examined. Furthermore, he is having a two year old daughter to look after and his wife has since died.

On the contrary, it has been argued by learned State counsel that the total weight of Alprazolam and Tramadol recovered from the conscious possession of the petitioner is to the extent of 2890.8 grams and 4422 grams

respectively which falls in the category of commercial quantity.

In the case in hand, quantity of contraband recovered from the possession of the petitioner falls in the category of commercial quantity. In such circumstances, the stringent provisions of section 37 of the NDPS Act come into play. Furthermore, in *State of Kerala vs. Rajesh and others; 2020 (1) RCR Criminal 818 (Supreme Court)*; it has been held that the liberal approach in granting the bail in cases under NDPS Act is uncalled for.

Section 37 of the NDPS Act provides as follows:

37. 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 2[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.”

A perusal of the aforesaid provision makes it abundantly clear that the accused cannot be released on bail unless the material on record indicates that there are reasonable grounds for believing that he is not guilty of such offence; and he is not likely to commit any offence while on bail. In *State of Kerala vs. Rajesh and others (Supra)* it has been further observed that the expression “reasonable grounds” means something more than prima facie grounds.

In the case in hand, the petitioner was transporting the contraband in a car, huge quantity of Alprazolam and Tramadol tablets have been recovered from his conscious possession and the quantity of contraband falls in the category of commercial quantity. Moreover, long incarceration cannot be termed to be a circumstance to extend the concession of bail particularly because the Courts are on restricted mode of hearing during the last about 10 months due to Covid-19 Pandemic. Furthermore, the case of the petitioner does not fall in the category of cases in which bail has to be granted to the undertrial prisoners in view of the guidelines of High-Powered Committee.

There is nothing to suggest that petitioner has not committed the offence and is not likely to commit the offence while on bail.

Keeping in view the totality of circumstances, no justified ground is made out to extend the concession of regular bail to the petitioner.

Dismissed.

08.01.2021

Janki

(VIVEK PURI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No