

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

**CRM-M No. 49322 of 2021 (O&M)  
Date of Decision: 25.11.2021**

Prince Kapoor

..... Petitioner

**Versus**

State of Punjab

..... Respondent

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR**

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

Mr. Bhupender Beniwal, Assistant Advocate General, Punjab,  
assisted by Sh. Premjit Singh, Sub Inspector

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**SURESHWAR THAKUR, J. (ORAL)**

1. The petitioner, by filing the present petition under Section 438 Cr.P.C. seeks grant of anticipatory bail in case FIR No. 129 of 26.10.2021, which was registered against him, at Police Station Bhogpur, District Jalandhar Rural, and, constituted therein offences under Sections 21-B & 29 of the NDPS Act.

2. This Court would not accord to the bail petitioner, the asked for relief of anticipatory bail, unless evidence, at this stage came to be adduced by the Investigating Officer (IO), hence revealing that the narcotic substance, inasmuch as 200 grams of heroin, as became recovered from the alleged conscious, and, exclusive possession of the accused, rather carried a weight less than commercial quantity thereof.

3. In determining the afore factum, this Court had asked the learned State Counsel to seek instructions from the IO, whether the weight of the afore made seizure, as, became effected from the alleged conscious,

and, exclusive possession of the accused-bail applicant, fell within the ambit

of the rigors of Section 37 of NDPS Act, inasmuch as the weight of the seizure (supra), fell within the domain of commercial quantity thereof.

4. To the afore query, the learned State Counsel, on instructions, meted to him, by the IO, has made a submission, that the seizure of 200 grams of heroin, as made from the purported conscious, and, exclusive possession of the accused, rather falls within the apposite intermediate quantity.

5. Consequently, this Court is of the view that since the rigors of Section 37 of NDPS Act, are not hence applicable, therefore this Court is constrained to accept the prayer of the bail applicant.

6. Therefore, it is deemed not fit and appropriate to order for the custodial interrogation of the bail applicant – petitioner. In sequel, it is ordered that in the event of arrest of the bail applicant-petitioner, he be released, by the Investigation Officer, on his furnishing personal and surety bonds in the sum of ₹ 50,000/- each, before him, and, also subject to his not tampering with prosecution evidence, and/or not influencing prosecution witnesses, and, also his appearing before the Investigating Officer concerned, as and when he is required to be making his personal appearance.

7. Disposed of.

**November 25, 2021**

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**( SURESHWAR THAKUR )  
JUDGE**

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|----------------------------------|---------------|
| <i>Whether Speaking/reasoned</i> | <i>Yes/No</i> |
| <i>Whether Reportable</i>        | <i>Yes/No</i> |