

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M- 48984 of 2019 (O&M)

Date of decision : 25.2.2021

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Dharminder Singh @ Jhima

.....Petitioner

vs.

State of Punjab

.....Respondent

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Mr. Sahil Puri, Advocate for the petitioner.

Mr. J.S. Ghuman, Deputy Advocate General,
Punjab.

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H. S. Madaan, J. (Oral)

Case taken up through video conferencing

CRM-27334-2020

This is an application for placing on record copy of recovery
memo dated 12.7.2019 as Annexure P-4.

The application is allowed subject to all just exceptions.

Main case.

This petition for regular bail under Section 439 Cr.P.C., has
been filed by petitioner – Dharminder Singh @ Jhima, aged about 34
years, son of Charan Singh, resident of village Lattianwal, district
Kapurthala, an accused in FIR No. 140, dated 12.7.2019, for offence
under Sections 22, 61, 85 of the NDPS Act, 1985, registered at Police
Station Sultanpur Lodhi, District Kapurthala.

Briefly stated, the prosecution story is that when apprehended by the Police Party on 12.7.2019, within the jurisdiction of Police Station Sultanpur Lodhi, District Kapurthala, the petitioner was found in possession of 260 grams of intoxicant powder containing the salt 'Alprazolam', without any licence or permit. The petitioner accused was accordingly arrested in this case. The contraband recovered from him was taken into possession. Investigation in the case started.

The petitioner had moved an application for grant of regular bail before Judge, Special Court, Kapurthala, which was dismissed vide order dated 31.10.2019, as such, he has approached this court praying for grant of similar relief, which request is being opposed by the learned State counsel.

I have heard, learned counsel for the petitioner, learned State counsel, besides going through the record.

Admittedly, the contraband recovered from the accused-petitioner comes under the definition of commercial quantity, attracting the bar of Section 37 (b) of the NDPS Act, 1985, which provides as under :-

“37. Offences to be cognizable and non-bailable.

—(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974),—

(a) XXX XXX XXX

(b) no person accused of an offence punishable

for 3 [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.”

As per reply filed by the State counsel, the petitioner is involved in 5 more criminal cases, besides the case in question. The details of such cases being as under :-

<i>Sr.No.</i>	<i>Particulars of cases</i>	<i>status</i>
1	FIR No. 184 dated 21.8.2012, u/s 15/61/85 of NDPS Act, Police Station City Kapurthala	Convicted on 21.1.2014
2	FIR No. 247 dated 13.9.2013, u/s 15/61/85 of NDPS Act, Police Station Basti Bawa Khel, Jalandhar	Convicted on 10.3.2016
3	FIR No. 28 dated 11.2.2015, u/s 22/61/85 of NDPS Act, Police Station Shahkot, District Jalandhar	Under trial
4	FIR No. 247 dated 29.8.2017, u/s 22/61/85 of NDPS Act, Police Station Sultanpur Lodhi	Under trial
5	FIR No. 34 dated 9.4.2013, u/s 21/61/85 of NDPS Act, Police Station Sadar, Kapurthala	Acquitted

He has been convicted in two cases under the NDPS Act.

That goes to show that he is a hardened criminal. I do not see any reason to record satisfaction that there are reasonable grounds for believing that the petitioner-accused is not guilty of such offence

and that he is not likely to commit any offence while on bail. If released on bail, there is every possibility of petitioner's indulging in drug trafficking again and taking to the path of crime once again. Also, there is reasonable possibility of his absconding and even trying to tamper with the prosecution evidence, if granted the concession of bail.

Under the circumstances, the petition is doomed for failure and is dismissed accordingly.

However, nothing discussed above shall have any bearing on the merits of the case.

25.2.2021
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(H.S. Madaan)
Judge

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