

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

CRM-M-462-2022
Reserved on: 21.03.2022
Pronounced on: 04.04.2022

Akashdeep Singh @ Banti ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Lupil Gupta, Advocate for the petitioner.

Ms. Jaspreet Kaur, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Section
153	13.07.2021	City South, District Moga	22 of NDPS Act, 1985

1. The petitioner, apprehending arrest for violating the above-mentioned provisions of Narcotics Drugs and Psychotropic Substances Act, 1985 (NDPS Act), as per the FIR captioned above had come up before this Court under Section 438 Cr.P.C seeking anticipatory bail.
2. In paragraph 22 of the petition, it is declared that the accused has no criminal history.
3. Ld. Counsel for the petitioner contends that the pre-trial incarceration would cause an irreversible injustice to the petitioner and family.
4. The contention on behalf of the State is that the FSL report has come and the quantity of the substance is commercial, and bail encourages habitual offenders. While opposing the bail, the contention on behalf of the State is that drug menace is rapidly increasing.

REASONING:

5. The quantity allegedly involved is 43.86 grams of Etizolam. The substance finds mentioned at entry no. 238ZZC of the table specifying small and commercial quantities, as per which the quantity greater than 2.5 gm falls in commercial quantity and lesser

than 0.05 gm as small. Thus, the quantity allegedly involved in this case is commercial. Given this, the rigours of S. 37 of the NDPS Act apply in the present case. The burden is on the petitioner to satisfy the twin conditions put in place by the Legislature under Section 37 of the NDPS Act.

6. The grounds taken in the bail petition do not shift the burden placed by the legislature on the accused under S. 37 of the NDPS Act. The petitioner has not stated anything to discharge the burden put by the rigours of S. 37 of the NDPS Act.

7. In the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner fails to make a case for anticipatory bail under section 438 CrPC.

8. Any observation made hereinabove is neither an expression of opinion on the merits of the case nor shall the trial Court advert to these comments.

Petition dismissed in aforesaid terms. Interim bail granted vide order dated 10 Jan 2022 is withdrawn with immediate effect. All pending applications, if any, stand disposed.

(ANOOP CHITKARA)
JUDGE

04.04.2022
Jyoti-II