

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-2861-2022
Reserved on : 28.01.2022
Pronounced on : February 02, 2022

Karnail Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

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

Mr. Harsimar Singh Sitta, AAG, Punjab.

(Through Video Conferencing)

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
14	16.03.2021	Singh Bhagwantpur, District Rupnagar.	22 of NDPS Act, 1985.

1. The petitioner, incarcerated upon his arrest has come up before this Court under Section 439 Cr.P.C. seeking bail for possessing a commercial quantity of 380 intoxicating injection Ampoales (5 ml. each) containing Buprenorphine Hydrochloride, in violation of Narcotics Drugs and Psychotropic Substances Act, 1985 (NDPS Act).
2. In paragraph 13 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. While opposing the bail, the contention on behalf of the State is that drug menace is rapidly increasing.

REASONING:

5. Even as per State's contention, an analysis of the FSL report prima facie leads to assessment that the quantity of the contraband is commercial. The

petitioner has not stated anything to discharge the burden put by the rigours of S. 37 of the NDPS Act. The stand, that the accused is in custody for sufficient time is also not a legal ground to overcome the rigours of S. 37 of the NDPS Act, at this stage.

6. Petitioner has not at all offered any explanation to rebut the presumption and shift the burden placed by the legislature on the accused under S. 37 of the NDPS Act. Thus, the petitioner has failed to make out a case for bail.

7. In the present case, since the alleged quantity of the contraband recovered from the main accused falls in commercial quantity, the burden is on the petitioner to satisfy the twin conditions put in place by the Legislature under Section 37 of the NDPS Act, which he has failed to do.

8. Given above, the petitioner fails to make out a case for bail.

9. Petition **dismissed** in aforesaid terms. All pending applications, if any, stand disposed.

(ANOOP CHITKARA)
JUDGE

February 02 , 2022
Manpreet

Whether speaking/reasoned	:	Yes
Whether reportable	:	No.