

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-4592-2022
Reserved on: 19.09.2022
Pronounced on: 23.09.2022

Jagpal Singh @ Jaggu ...Petitioner
Versus
State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. L.S. Sekhon, Advocate for the petitioner.

Mr. Jashandeep Singh, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
53	25.10.2021	City Ahmedgarh, District Malerkotla (Earlier District Sangrur)	22 and 29 of NDPS Act

1. The petitioner, incarcerated upon his arrest for possessing a commercial quantity allegedly of Tramadol, in violation of Narcotics Drugs and Psychotropic Substances Act, 1985 (NDPS Act), has come up before this Court under Section 439 of Cr.P.C., seeking bail.
2. In paragraph 18 of the bail petition, the accused declares that he has no criminal antecedents.
3. The police had got secret information about the transportation of drugs by the petitioner Jagpal Singh and her sister-in-law, namely Harpreet Kaur, on a bike. They waited for them to arrive and on noticing the police, the driver of the bike, i.e., the petitioner Jagpal Singh, became perplexed, and on this the pillion rider Harpreet Kaur threw a packet, which opened and tablets spilled all over, which were prima facie detected to contain 2900 tablets of TRAMWELL-100 SR.
4. Ld. Counsel for the petitioner contends that the pre-trial incarceration would cause an irreversible injustice to the petitioner and family.
5. Ld. counsel representing the State opposes bail.

REASONING:

6. As per State's contention, the quantity falls in the category of 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.

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. The challan under section 173 Cr.P.C. stands filed. Despite that the copy of the police report under section 173 Cr.P.C. has not been annexed with the appeal. It is not the case of the appellant that he has not received the report under section 207 Cr.P.C.

9. Had the accused not received the documents in compliance with S. 207 Cr.P.C., this Court would have certainly asked the respondent to produce the same. However, the petitioner does not claim the non-receipt of the challan. The accused receives copies of the Police report and the copies of the statements of witnesses free of cost.

10. The allegations in the case are serious and the offence heinous. To decide the bail petition on merits would require this Court to peruse the evidence collected by the prosecution, especially to know the source of light, the time being 8 PM in the month of October. The petitioner has neither annexed the copy of the police report filed under Section 173(2) Cr.P.C., nor does he say that the Trial Court did not supply the same to him under S. 207 Cr.P.C. There is no ground pleaded or explanation offered regarding reasons that constrained the petitioner from annexing those while filing the petition. Thus, the Court cannot decide the bail petition.

11. Given above, in the facts and circumstances peculiar to this case, the petition is closed. However, the petitioner shall be at liberty to file a new petition on the same cause of action by annexing a copy of the police report and all necessary documents.

12. 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 with liberty reserved. All pending applications, if any, stand disposed.

(ANOOP CHITKARA)
JUDGE

23.09.2022
Jyoti-II

Whether speaking/reasoned: Yes
Whether reportable: No.