

CRM-M-7977-2022

Date of Decision: 11th July, 2022

Angrej Singh @ Geja

Petitioner

Versus

State of Punjab

Respondent

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. G.L. Bajaj, Advocate for the petitioner.

Mr. Sandeep Kumar, Deputy Advocate General, Punjab.

AVNEESH JHINGAN, J (Oral):

This is third regular bail petition in case of FIR No. 0209 dated 20.10.2020 under Section 22(c) of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'the Act') registered at P.S. Nathana, District Bathinda.

The earlier two bail petitions were dismissed as withdrawn as the learned counsel for the petitioner realized that Court was not inclined to grant bail. However, liberty was sought by the learned counsel for the petitioner for reviving the prayer later.

Brief facts are that on 20.10.2020, the police party apprehended the petitioner and recovered 2000 tablets of CLOVIDOL-100 SR (as per FSL report quantity of each tablet is 99.10 mg Tramadol Hydrochloride).

The only ground pressed for seeking bail is that petitioner is in custody since 20.10.2020.

Learned State counsel opposes the grant of regular bail, he submits that recovery is of a commercial quantity. He places reliance on

Section 37 of the Act provides stringent provisions for grant of bail in case where the recovery is of commercial quantity. The twin conditions are required to be fulfilled.

The Supreme Court in *State of Kerala Versus Rajesh 2020 AIR (Supreme Court) 721* held as under:-

“20. The scheme of Section 37 reveals that the exercise of power to grant bail is not only subject to the limitations contained under Section 439 of the CR.P.C., but is also subject to the limitation placed by Section 37 which commences with non-obstante clause. The operative part of the said section is in the negative form prescribing the enlargement of bail to any person accused of commission of an offence under the Act, unless twin conditions are satisfied. The first condition is that the prosecution must be given an opportunity to oppose the application; and the second is that the Court must be satisfied that there are reasonable grounds for believing that he is not guilty of such offence. If either of these two conditions is not satisfied, the ban for granting bail operates.

21. The expression “reasonable grounds” means something more than prima facie grounds. It contemplates substantial probable causes for believing that the accused is not guilty of the alleged offence. The reasonable belief contemplated in the provision requires existence of such facts and circumstances as are sufficient in themselves to justify satisfaction that the accused is not guilty of the alleged offence. In the case on hand, the High Court seems to have completely overlooked the underlying objects of Section 37 that in addition to the limitations provided under the CrPC, or any other law for the time being in force, regulating the grant of bail, its liberal approach in the matter of bail under the NDPS Act is indeed uncalled for. ”

No argument is put forth before this Court to reach to a *prima facie* satisfaction of fulfilment of first condition of Section 37 of the Act.

In the case in hand, where there is recovery of commercial quantity of contraband from the possession of the petitioner, in view of the provisions of Section 37 of the Act, custody period cannot be the sole consideration for grant of bail.

No case is made out for grant of bail.

Dismissed.

[AVNEESH JHINGAN]
JUDGE

11th July, 2022
anuradha

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| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |