

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-9739-2021
Reserved on: 12.09.2022
Date of Pronouncement: 29.09.2022

Kala Singh
...Petitioner (s)
Versus
State of Punjab
...Respondent(s)

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA
Present:- Mr. L.S. Sekhon, Advocate
for the petitioner(s).
Mr. Jashandeep Singh, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
236	21.10.2019	City Sunam, District Sangrur	22 and 29 NDPS Act

1. The petitioner, incarcerated upon his arrest for possessing a commercial quantity of tablets containing Tramadol, in violation of Narcotics Drugs and Psychotropic Substances Act, 1985 (NDPS Act), has come up before this Court under Section 439 of CrPC, seeking bail.
2. In paragraph 14 of the bail petition, the accused declares that he has no criminal antecedents.
3. On 21st Oct 2019, based on a secret information, the police had recovered commercial quantity of tablets, and on testing, the laboratory found those tablets containing Tramadol.
4. Ld. Counsel for the petitioner contends that the pre-trial incarceration would cause an irreversible injustice to the petitioner and family.

5. While opposing the bail, the contention on behalf of the State is that the quantity of contraband involved in the case falls in the commercial category.

REASONING:

6. The prosecution’s contention is that the quantity of substance is commercial. Given this, the rigours of Section 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.

7. The petition states that the accused is entitled to bail because the search and other memos are typed and even the offence is typed whereas at that time the police had no information about the said particulars.

8. This argument can only be appreciated by the trial court at the time of final hearing and not for the bail.

9. 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 stringent conditions placed in the statute by the legislature under section 37 of the NDPS Act. Thus, the petitioner has failed to make a case for bail at this stage.

10. A perusal of the bail petition and the documents attached, *prima facie* points towards the petitioner’s involvement and does not make out a case for bail. Any further discussions are likely to prejudice the petitioner; this court refrains from doing so.

11. 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. All pending applications, if any, stand disposed.

(ANOOP CHITKARA)
JUDGE

September 29, 2022
AK

Whether speaking/reasoned:
Whether reportable:

Yes
No.