

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

**CRM-M No. 10942 of 2022
Date of Decision: 15.03.2022**

Bahadar Ali @ Bahadur Ali

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present: Mr. Rajiv Rathore, Advocate, for the petitioner.

Ms. Bhavna Gupta, Deputy Advocate General, Punjab

SURESHWAR THAKUR, J. (ORAL)

1. The petitioner, by filing the present petition under Section 438 Cr.P.C., seeks grant of anticipatory bail in case FIR No. 90 of 01.12.2021, which was registered against him, at Police Station Jodhan, District Ludhiana, constituting therein offences under Sections 22/25/29 of the NDPS Act, 1985.

2. The incriminatory role, as, attributed to the bail applicant – petitioner in the FIR (supra), is of his being a supplier of contraband, to the principal accused, from whose conscious and exclusive possession, and, at the crime site, the apposite recovery became effectuated.

3. The afore role, as, attributed to the petitioner, is that of a conspirator, and, thereupon he alongwith the principal offender concerned, is to be charged for the offence(s) (supra), as, constituted in the FIR concerned.

4. Be that as it may, since the weight of the seizure, which had occurred at the crime site, and, from the alleged conscious and exclusive possession of the principal offender, is about 20 grams of Tramadol

5. Moreover, when it is also fairly stated at the Bar by the learned State Counsel, that the gross weight of the seizure, as, made at the crime site, makes it fall within the ambit of less than commercial quantity thereof. Therefore, the rigors of Section 37 of NDPS Act, are not hence applicable thereons, rather this Court is constrained to accept the prayer of the bail applicant.

6. Therefore, it is deemed not fit and appropriate to order for the custodial interrogation of the bail applicant – petitioner. In sequel, it is ordered that in the event of arrest of the bail applicant-petitioner, he be released, by the Investigation Officer, on his furnishing personal and surety bonds in the sum of ₹ 50,000/- each, before him, and, also subject to his not tampering with prosecution evidence, and/or not influencing prosecution witnesses, and, also, as and when he is summoned by the investigating officer, through a written Hukamnama, his cooperating in the investigations to be made into the offence(s) concerned.

7. The afore order is also subject to the petitioner making an undertaking before the learned trial Court, that he shall not re-indulge in any criminal activity, whereupon, on breach thereof, the benefit of pre-arrest bail, as granted to him shall become *ipso facto* annulled, leaving liberty to the Arresting Officer, to thereafter arrest him, and, produce the bail applicant before the learned Magistrate concerned, for appropriate directions, *vis-a-vis*, an order of judicial custody being made, upon him.

8. Disposed of.

March 15, 2022

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(SURESHWAR THAKUR)

JUDGE

<i>Whether Speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>