

CRM-M-12493-2022

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CRM-M-12493-2022  
Reserved on: 14.09.2022  
Pronounced on: 30.09.2022

Harpreet Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Dr. Rau P.S. Girwar, Advocate for the petitioner.

Mr. Jashandeep Singh, AAG, Punjab.

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ANOOP CHITKARA, J.

| FIR No. | Dated      | Police Station              | Sections                                  |
|---------|------------|-----------------------------|-------------------------------------------|
| 133     | 17.06.2021 | City Kotkapura,<br>Faridkot | 22(C)/29/61/85 of NDPS Act<br>and 201 IPC |

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 15 of the bail petition, the accused declares that he has no criminal antecedents.
3. On 17<sup>th</sup> June 2021, the police while patrolling, stopped a bike, and suspected them to carrying intoxicants. After that the police recovered 6600 tablets from a bag lying in-between them.
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. Based on the report of the laboratory, the prosecution claims the recovered contraband to be commercial quantity of Tramadol. Given this, the rigours of S. 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.

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7. The petition states that the accused is entitled to bail because the police did not send the entire quantity for testing and sent just one strip, which would not represent the remainder. This argument is baseless at this stage because the tablets had a brand name RADOL-100, and whether all the tablets were of same batch or not is a matter of trial and in the facts and circumstances peculiar to this case, the argument does not satisfy the requirements of section 37 of NDPS Act.

8. 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. 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. Thus, the petitioner has failed to make a case for bail at this stage.

9. 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.

*Trial be expedited; however, if the accused seeks even a single adjournment, this order shall be deemed to have been recalled and withdrawn without any further reference to this court.*

(ANOOP CHITKARA)

JUDGE

30.09.2022

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Whether speaking/reasoned: Yes

Whether reportable: No.