

CRM-M-22989 of 2021

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

CRM-M-22989 of 2021
Date of Decision: 12.09.2022

Jeevan Singh @ Jimma

.... Petitioner

Versus

State of Punjab

.... Respondent

CORAM: HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: - Mr. J.S. Sandhu, Advocate, for the petitioner.
Mr. G.S. Sandhu, Deputy Advocate General, Punjab.

ASHOK KUMAR VERMA, J. (ORAL)

Custody certificate filed in Court today is taken on record.

Through this petition under Section 439 Cr.P.C. prayer has been made for grant of regular bail to the petitioner in case FIR No.31 dated 17.03.2021 registered under Section 22(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station Raman Bathinda, District Bathinda, Punjab.

In brief the case of the prosecution is that 1500 tablets of mark Tramadol Hydrochloride 100 mg.Clovedol-100SR were recovered from the petitioner on 17.03.2021.

Learned counsel for the petitioner submits that petitioner has been falsely implicated in this case. Nothing incriminating was recovered from the person of the petitioner and the alleged recovery has been planted upon him. Learned counsel further contends that there is violation in compliance of Sections 42, 50 and 52 of the NDPS Act.

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Petitioner is in custody since 17.03.2021. Out of nine prosecution witnesses, three witnesses have been examined. Conclusion of trial may take a long time. Therefore, petitioner may be granted the relief of regular bail. In support of his contentions, learned counsel placed reliance on the orders of the Hon'ble Supreme Court in ***CRM(NDPS) No.442/2022 – Nitish Adhikary @ Bapan v. The State of West Bengal dated 01.08.2022*** and ***CRM (NDPS) No.299/2022 – Shariful Islam @ Sarif v. The State of West Bengal dated 04.08.2022*** and the order passed by this Court in ***CRM-M-8252 of 2022 – Boota Singh v. State of Punjab dated 05.07.2022***.

Per contra, learned State counsel opposed the petition for grant of regular bail to the petitioner.

I have heard learned counsel for the petitioner as well as the learned State counsel and perused the paperbook.

An exceptionally heavy recovery of contraband has been made from him. Petitioner has not given any explanation for the commercial quantity of contraband that has been recovered from his possession. Bar as laid down under Section 37 of the NDPS Act is clearly attracted. Power to grant bail under Section 439 of the Code is subject to the conditions laid down in Section 37 of the NDPS Act, which commences with non-obstante clause. The Court is required to see as to whether there are any reasonable grounds to believe that the accused has not committed the offence and whether he is likely to commit any offence while on bail. This Court is satisfied that these conditions are not

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satisfied. The arguments of the counsel for the petitioner regarding non-compliance of the procedure and instructions, would remain subject matter of trial as has been held by the Supreme Court in *Union of India through NCB, Lucknow Vs. Md.Nawaz Khan (2021) 10 SCC 100*.

Keeping in view the totality of the facts and circumstances, the huge quantity of prohibited substance recovered from the petitioner, stringent provision of Section 37 and presumption under Section 54 of the NDPS Act as well as the fact that the trial is progressing, this Court does not deem it fit to grant regular bail to the petitioner.

Petition is dismissed.

September 12, 2022
R.S.

(ASHOK KUMAR VERMA)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No