

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

CRM-M-29155-2021 (O&M)
Date of Decision:- 19.12.2022

Karan Yadav

... Petitioner

Versus

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Liaqat Ali, Advocate for the petitioner.

Mr. Abhinash Jain, DAG, Haryana,
assisted by ASI Rakesh Kumar.

GURVINDER SINGH GILL, J.

1. The petitioner seeks grant of anticipatory bail in a case registered vide FIR No. 131 dated 18.5.2021 under Section 21(C) of the Narcotic Drugs and Psychotropic Substances Act, 1985 at Police Station Mullana, District Ambala.
2. The case of the prosecution is that on 18.5.2021, an information was received at Police Station Mullana to the effect that a motorcycle had met with an accident on Hema Majra Road and on account of which two boys had been injured and were lying in the fields nearby.
3. Pursuant to receipt of said information, a policy party headed by ASI Sher Singh proceeded to the spot where a black coloured Splendor motorcycle without registration number was lying in an accidental condition. Two young boys were also lying nearby in injured condition. A bag and a black coloured polythene were also found nearby. Upon checking the bag and the

polythene bag, 6096 capsules of '*Proxyyon Tramadol*', weighing 4.676 kilograms were recovered. The injured boys disclosed their names as Karan Yadav and Akash. The said boys were taken to hospital in an ambulance for treatment.

4. The learned counsel for the petitioner submits that the petitioner has falsely been implicated in the present case and that since it is a case of recovery of contraband from bags which were lying near the place of accident, it cannot be said with certainty that the same belong to the petitioner and that as such, the petitioner cannot be attributed conscious possession of the allegedly recovered contraband.
5. Opposing the petition, the learned State counsel has submitted that since the police reached at the spot of accident shortly after the accident had occurred and the bags in question were found lying near the place of accident where the motorcycle and the two accused were lying, the petitioner can safely be attributed conscious possession of the recovered contraband. It has further been submitted that since the recovered contraband falls in the category of 'commercial quantity' of contraband, no case for grant of bail is made out.
6. This Court has considered the rival submissions.
7. Having regard to the fact that it is a case of recovery of 'commercial quantity' of contraband, the fetters imposed by Section 37 of the NDPS Act will come into play in the matter of grant of bail.
8. The recovery of commercial quantity of contraband from the place where the accused were lying in injured condition, immediately after the accident, points towards complicity of accused. At this stage, there is nothing to doubt the case of prosecution. Hon'ble Apex Court in a judgment i.e.

2020(1) RCR(Criminal) 818 State of Kerala vs. Rajesh Kumar has reiterated the legal position as regards the limitations imposed by Section 37 of the Act and has further held that a liberal approach in matters of bail in offences under the NDPS Act is uncalled for.

9. Hon'ble Supreme Court in a very recent judgment Narcotics Control Bureau vs. Mohit Aggarwal, 2022(3) RCR(Criminal) 985, while deciding an appeal filed by Narcotics Control Bureau challenging grant of bail to an accused by the High Court, cancelled the bail while reiterating the view that provisions of Section 37 of the Act have to be strictly complied with and that mere length of custody cannot be a consideration for grant of bail. Paras 14 and 18 of the said judgment read as follows :-

- “14. To sum up, the expression “reasonable grounds” used in clause (b) of Sub-Section (1) of Section 37 would mean credible, plausible and grounds for the Court to believe that the accused person is not guilty of the alleged offence. For arriving at any such conclusion, such facts and circumstances must exist in a case that can persuade the Court to believe that the accused person would not have committed such an offence. Dove-tailed with the aforesaid satisfaction is an additional consideration that the accused person is unlikely to commit any offence while on bail.
15. xxx xxx xxx
16. xxx xxx xxx
17. xxx xxx xxx
18. In our opinion the narrow parameters of bail available under Section 37 of the Act, have not been satisfied in the facts of the instant case. At this stage, it is not safe to conclude that the respondent has successfully demonstrated that there are reasonable grounds to believe that he is not guilty of the offence alleged against him, for him to have been admitted to bail. The length of the period of his custody or the fact that the charge-sheet has been filed and the trial has commenced are by themselves not considerations that can be treated as persuasive grounds for granting relief to the respondent under Section 37 of the NDPS Act.”

10. There is nothing on record to suggest that the petitioner has been falsely implicated or that in case released on bail, he will not commit identical offences again. As such, no special case for grant of anticipatory bail is made out.
11. The petition is sans merit and is hereby dismissed.

19.12.2022

kamal

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned

Yes / No

Whether Reportable

Yes / No