

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-27366-2022
Reserved on: 25.08.2022
Date of Pronouncement: 30.08.2022

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

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Darshan Singh Malwai, Advocate
for the petitioner(s).

Mr. H.S. Sitta, DAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
47	23.5.2022	Tapa Mandi, District Barnala	15, 25 NDPS Act and later on added Section 29 NDPS Act

1. The petitioner, apprehending arrest for violating the above-mentioned provisions of Narcotics Drugs and Psychotropic Substances Act, 1985 (NDPS Act) per the FIR captioned above had come up before this Court under Section 438 CrPC seeking anticipatory bail.
2. In paragraph 9 of the bail petition, the accused declares his criminal antecedents as under:-

Sr. No.	FIR No.	Date	Offences	Police Station	Status
1.	71	4.10.2019	354-D, 506 IPC and Section 67A IT Act.	Rureke Kalan	Acquitted

3. On 23rd May 2022, based on specific secret information, the police recovered ten quintals of poppy husk from a factory and arrested two persons named Tarlok Singh and Harmeet Singh. During interrogation, Tarlok Singh made a disclosure statement under section 27 of Indian Evidence Act, 1872, that he along with the petitioner - Nazar Singh and Jagsir Singh had stored some poppies

in a room constructed on the fields of Jagsir and, after that got, recovered 120 kg of poppy husk. Further, the other accused, Harmeet Singh, disclosed that they purchased poppy husk from Baltej Singh and Hakam Singh.

4. Ld. Counsel for the petitioner contends that the pre-trial incarceration would cause an irreversible injustice to the petitioners and family.

5. Ld. counsel representing the State opposes bail.

REASONING:

6. The substance involved in the present case is poppy straw, and weighs 1120 kilograms. Entry no. 110 of the table specifying small and commercial quantities specifies the quantity greater than 50 kilograms as commercial quantity and lesser than 1000 grams as small. Thus, the quantity allegedly involved in this case 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. A perusal of the bail petition reveals that the petitioner has not explained his relationship or the reasons for the false implication. The investigation points out that it is on the basis of disclosure statement of Tarlok Singh and one Ram Singh, the petitioner – Nazar Singh was nominated as an accused. Thus, the burden is on the petitioner to explain his involvement in the present case. In the absence of explanation, the petitioner has failed to satisfy the legislative barrier placed in section 37 of the NDPS Act.

8. The grounds taken in the bail petition do not shift the burden placed by the legislature on the accused under Section 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.

9. In the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner fails to make case for anticipatory bail under section 438 CrPC.

10. 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 in aforesaid terms. All pending applications, if any, stand disposed.

(ANOOP CHITKARA)
JUDGE

August 30, 2022
AK

Whether speaking/reasoned:	Yes
Whether reportable:	No.