

CRM-M-25371-2020

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-25371-2020
Reserved on: 15-03-2022
Pronounced on: 18.04.2022

Rattan Singh @ Manga ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. B.S. Bhalla, Advocate for the petitioner.

Mr. H.S. Sitta, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
108	28.04.2020	Gate Hakima, District Amritsar	22/29/61/85 of 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. Vide order dated 20 jan 2022, a co-ordinate bench of this court had granted interim protection to the petitioner.
3. Ld. Counsel for the petitioner contends that there is no direct evidence to connect the petitioner with the main accused Naval Sood and his associates and the disclosure statements are inadmissible in law. Ld. counsel further submits that no recovery can be effected at such a belated stage.
4. Ld. counsel for the State has referred to the status report and submits that bail encourages criminals. While opposing the bail, the contention on behalf of the State is that drug menace is rapidly increasing.

REASONING:

5. The quantity attributed to the petitioner is 2 lac tablets of tramadol. The substance Tramadol finds mentioned at entry no. 238 ZH, which defines quantity lesser than 5 grams of Tramadol as ‘small quantity’ and quantity greater than 250 grams as

CRM-M-25371-2020

'commercial quantity'. Thus, the Tramadol weighing between 5 grams up to 250 grams (Less than 250 grams) falls in the intermediate quantity. Undisputedly, two lac tablets would be commercial quantity. 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.

6. In paragraph 6 of the bail petition, the ground for bail is that the petitioner is not named in FIR. There is no denying that the petitioner is not named in FIR. However, the accused are connected through the 814 calls between the petitioner and the co-accused Amarjit Singh alais Kaka. Out of those 72 calls were exchanged between 30-03-2020 and 27-04-2020. The investigation revealed that on 27-04-2020, Simratpal Singh had delivered consignment of four boxes of Tramadol to Amarjit Singh, who had further delivered the same to the petitioner. Thus, custodial investigation is required to know the whereabouts of the tablets, and if already sold, then the names and identity of persons, to whom these have been sold. Consequently, the petitioner fails to make out a case for anticipatory bail.

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

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

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 in aforesaid terms. Interim order dated 20-01-2022, as extended till date, is recalled and set aside. All pending applications, if any, stand disposed.

(ANOOP CHITKARA)
JUDGE

18.04.2022
anju rani

Whether speaking/reasoned: Yes

Whether reportable: No