

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-31623-2021
Reserved on: 08.04.2022
Pronounced on: May 10, 2022

Jagpreet Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Prateek Pandit, Advocate for the petitioner

Mr. Tanvir Joshi, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
150	28.08.2019	Sadar Kapurthala, District Kapurthala	22,29 of NDPS Act, 1985 and Section 61, 63 of Punjab Excise Act, 1914

1. The petitioner, incarcerated upon his arrest for jointly possessing and transporting a commercial quantity of heroin, 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 13 of the bail petition, the accused declares that he has criminal antecedents.
3. On suspicion, the police officials signaled a Bolero jeep to halt, however the petitioner alighted and fled away. The other co-occupant was nabbed and 260 grams of heroin was recovered from the dash board of the vehicle and illicit liquor was also recovered. Later on, the police arrested the petitioner.
4. Ld. Counsel for the petitioner contends that the pre-trial incarceration would cause an irreversible injustice to the petitioner and family.
5. Ld. counsel representing the State opposes bail.

REASONING:

6. The substance involved in the present case is Heroin [Diacetyl morphine], and weighs 260 grams. The entry no. 56 of the table specifying small and commercial

quantities, specifies the quantity greater than 250 grams as commercial quantity and lesser than 5 grams as small. Thus, the quantity recovered is commercial. The petitioner has not stated anything to discharge the burden put by the rigours of S. 37 of the NDPS Act. The stand that the accused is in custody for sufficient time is also not a legal ground to overcome the rigours of S. 37 of the NDPS Act at this stage.

7. The petitioner has not stated anything to discharge the rigours of Section 37 of the NDPS Act. 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. Thus, the petitioner has failed to make out a case for bail.

8. In the present case, since the alleged quantity of the contraband recovered from the main accused falls in commercial quantity, the burden is on the petitioner to satisfy the twin conditions put in place by the Legislature under Section 37 of the NDPS Act, which he has failed to do.

09. The allegations in the case are serious and the offence heinous. To decide the bail petition on merits would require this Court to peruse the evidence collected by the prosecution. The petitioner has neither annexed the copy of the police report filed under Section 173(2) CrPC, nor does he say that the Trial Court did not supply the same to him under S. 207 CrPC. There is no ground pleaded or explanation offered regarding reasons that constrained the petitioner from annexing those while filing the petition. Thus, the Court cannot decide the bail petition.

10. Given above, In the facts and circumstances peculiar to this case, the petition is closed. However, the petitioner shall be at liberty to file a new petition on the same cause of action by annexing a copy of the police report and all necessary documents.

11. 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

May 10, 2022
Sonia arora

Whether speaking/reasoned: Yes
Whether reportable: No.