

CRM-M-33169-2021

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-33169-2021
Reserved on: 25.02.2022
Pronounced on: 03.03.2022

Prabhjot Singh @ Prabh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Ruhani Chadha, Advocate for the petitioner.
Mr. H.S. Sitta, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
10	27.01.2017	Subhanpur, District Kapurthala	22-61-85 of NDPS Act

1. The petitioner, incarcerated upon his arrest has come up seeking bail before this Court under Section 439 CrPC, for possessing a commercial quantity of 250 grams of intoxicant powder, in violation of Narcotics Drugs and Psychotropic Substances Act, 1985 (NDPS Act).
2. In paragraph 14 of the petition, it is declared that the accused has no criminal history; however, the learned State Counsel submits on instructions that the accused has criminal antecedents, with case under NDPS Act and other under IPC.
3. Ld. Counsel for the petitioner contends that the pre-trial incarceration would cause an irreversible injustice to the petitioner and family.
4. The contention on behalf of the State is that the petitioner has criminal antecedents, and bail encourages habitual offenders. While opposing the bail, the contention on behalf of the State is that drug menace is rapidly increasing.

REASONING:

5. In Paramjeet Singh v. State of Punjab, CRM-M 50243 of 2021, this court observed,

While considering each bail petition of the accused with a criminal

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history, it throws an onerous responsibility upon the Courts to act judiciously with reasonableness because arbitrariness is the antithesis of law. The criminal history must be of cases where the accused was convicted, including the suspended sentences and all pending First Information Reports, wherein the bail petitioner stands arraigned as an accused. In reckoning the number of cases as criminal history, the prosecutions resulting in acquittal or discharge, or when Courts quashed the FIR; the prosecution stands withdrawn, or prosecution filed a closure report; cannot be included. Although crime is to be despised and not the criminal, yet for a recidivist, the contours of a playing field are marshy, and graver the criminal history, slushier the puddles.

6. Although the petitioner has made two-fold prayers for bail, one on merits and other on medical grounds, but during the course of arguments, Ld. counsel for the petitioner took permission to file a separate petition on medical grounds of his family member, if the need arises. Thus, the adjudication is confined only to merits.

7. Apart from the criminal history, the quantity of contraband allegedly recovered from the petitioner as per State's contention, falls in the category 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.

8. 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.

9. 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. The petitioner has not stated anything to discharge the burden put by the rigours of S. 37 of the NDPS Act. Thus, the petitioner has failed to make out a case for bail at this stage.

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. However, the petitioner shall be at liberty to seek bail on the medical grounds of his family member, as mentioned above.

(ANOOP CHITKARA)
JUDGE

March 03, 2022
anju rani

Whether speaking/reasoned: Yes
Whether reportable: No.