

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

CRM-M-34200-2022

Date of Decision: 9th August, 2022

Ramesh Singh

... Petitioner

Versus

State of Punjab

... Respondent

CORAM : HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr. Umesh Kumar Kanwar, Advocate for the petitioner.
Mr. Sandeep Kumar, Deputy Advocate General, Punjab.

AVNEESH JHINGAN , J.(Oral)

Petitioner is seeking regular bail in case FIR No. 186, dated 25th November, 2021, under Sections 22, 29 of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'the Act'), registered at Police Station Fazilka, District Fazilka.

2. Brief facts are that police acting upon a secret information on 25th November, 2021, apprehended Rakesh-petitioner and co-accused Mangal Singh. 5540 tablets of containing tramadol and alprazolam salt were recovered.

3. Learned counsel for the petitioner submits that petitioner is in custody since 25th November, 2021, challan stands presented and charges are yet to be framed. He further submits that nothing is recovered from the petitioner.

4. Learned State counsel opposes the prayer for grant of regular bail and submits that petitioner is involved in ten FIRs. Six FIRs are under the Act and in four FIRs he has been convicted. The recovery from the petitioner was of commercial quantity.

5. Section 37 of the Act provide a stringent provisions for grant of bail in cases involving commercial quantity.

6. The Supreme Court in *Narcotics Control Bureau Versus Mohit Aggarwal, Crl.A. No.1001-1002 of 2022, decided on 19th July, 2022*, held as under:

"10. The provisions of Section 37 of the NDPS Act read as follows:

"[37. Offences to be cognizable and non-bailable.-(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974)

(a) every offence punishable under this Act shall be cognizable;

(b) no person accused of an offence punishable for [offences under section 19 or section 24 or section 27A and also for offences involving commercial quantity] shall be released on bail or on his own bond unless –

(i) the Public Prosecutor has been given an opportunity to oppose the application for such release, and

(ii) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.

(2) The limitations on granting of bail specified in clause (b) of subsection (1) are in addition to the limitations under the Code of Criminal Procedure, 1973 (2 of 1974) or any other law for the time being in force, on granting of bail.

12. The expression "reasonable grounds" has come up for discussion in several rulings of this Court. In "Collector of Customs, New Delhi v. Ahmadaliev Nodira" 5, a decision rendered by a Three Judges Bench of this Court, it has been held thus :-

"7. The limitations on granting of bail come in only when the question of granting bail arises on merits. Apart from the grant of opportunity to the Public Prosecutor, the other twin conditions which really have relevance so far as the present accused-respondent is concerned, are: the satisfaction of the court that there are reasonable grounds for believing that the accused is not guilty of the alleged offence and that he is not likely to commit any offence while on bail. The conditions are cumulative and not alternative. The satisfaction contemplated regarding the accused being not guilty has to be based on reasonable grounds. The expression "reasonable grounds" means something more than prima facie grounds. It contemplates substantial probable causes for believing that the accused is not guilty of the alleged offence. The reasonable belief contemplated in the provision requires existence of such facts and circumstances as are sufficient in themselves to justify satisfaction that the accused is not guilty of the alleged offence."

[emphasis added]

"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 chargesheet 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."

7. As per Section 37 of the Act, for grant of bail in cases involving commercial quantity of contraband, the Court has to satisfy itself on the reasonable ground that accused is not guilty and he is not likely to commit any offence while on bail. The twin conditions are required to be fulfilled. The petitioner is involved in six more cases under the Act. In such circumstances, it cannot be *prima-facie* concluded that he is not likely to commit any offence while on bail. As held by the Supreme Court in ***Mohit Aggarwal's case (supra)***, custody period alone cannot be a ground for grant of bail.

8. The petition is dismissed.

9. Since the main case has been dismissed, the pending application, if any is rendered infructuous.

(AVNEESH JHINGAN)
JUDGE

9th August, 2022
Parveen Sharma

Whether reasoned/speaking	Yes/No
Whether reportable	Yes/No