

CRM-M-38526-2021

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-38526-2021
Reserved on: 21.02.2022
Pronounced on: 04.03. 2022

Rana Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Sandeep Kumar Passi, Advocate for the petitioner.

Mr. Rehatbir Singh Mann, DAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
122	12.06.2021	City Kotkapura, District Faridkot	22/15 of NDPS Act and later on Section 29 of NDPS Act added

1. The petitioner, incarcerated upon his arrest has come up before this Court under Section 439 CrPC, for possessing a commercial quantity of varied intoxicant tablets and 18 kg of poppy husk, in violation of Narcotics Drugs and Psychotropic Substances Act, 1985 (NDPS Act).
2. In paragraph 15 of the petition, it is declared that the accused has no criminal history.
3. Ld. Counsel for the petitioner contends that the pre-trial incarceration would cause an irreversible injustice to the petitioner and family.
4. While opposing the bail, the contention on behalf of the State is that drug menace is rapidly increasing.

REASONING:

5. 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.
6. The police had allegedly recovered commercial quantity of tablets and 18 kg of

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poppy husk which is non-commercial quantity from the horse cart being driver by the petitioner. A perusal of the petition reveals that the accused is alleging false implication but he has not substantiated such allegations beyond preponderance of probabilities. Thus, he did not overcome the rider set in place by the legislature through section 37 of NDPS Act.

7. 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.

8. 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.

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. All pending applications, if any, stand disposed.

(ANOOP CHITKARA)
JUDGE

March 04, 2022.
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Whether speaking/reasoned:	Yes
Whether reportable:	No