

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-35036-2022
Reserved on: 08-08-2022
Pronounced on: 23.08.2022

Karamvir Singh @ Karamjit Singh @ Kammu ...Petitioner
Versus
State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Rakesh Kumar, Advocate for the petitioner.
Mr. Dhruv Dayal, Sr. DAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
109	11.05.2022	Kotwali, District Kapurthala	21, 29 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 Cr.P.C. seeking anticipatory bail.
2. In the bail application, the petitioner is silent about criminal antecedents.
3. On May 11, 2022, the police received secret information about transportation of heroin by Karamjit, Jaspal Singh, and Karamjit alias Kammu (Petitioner). The police spotted the bike and noticed three persons riding on it; however, the driver tried to take a turn and the bike slipped, and the police managed to catch two of the riders, but the third one (petitioner) was able to run away. The police recovered 500 grams of heroin from their possession.
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 500 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 allegedly involved in this case is commercial. However, the evidence against the petitioner 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.

7. The petitioner claims that it is impossible to escape in the presence of a large number of police personnel; however, this argument needs cross-examination before arriving at such a conclusion. A person who knows that he is carrying a commercial quantity of contraband, which will attract a minimum of ten years of imprisonment, is likely to put his life at stake to save from the prosecution. In the facts and circumstances peculiar to this case, the argument does not satisfy the requirements of section 37 of the NDPS Act.

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 Cr.P.C.

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

23.08.2022
Jyoti-II

Whether speaking/reasoned:	Yes
Whether reportable:	No.