

CRM-M-40345-2021

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-40345-2021
Reserved on: 14.09.2022
Pronounced on: 30.09.2022

Balkrishan Sharma ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Kehar Singh Hissowal, Advocate
For the petitioner.

Mr. Jashandeep Singh, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
100	20.07.2021	Bareta, Distt. Mansa	22, 25 of NDPS Act

1. The petitioner, incarcerated upon his arrest for possessing a commercial quantity of tablets containing Tramadol, 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 10 of the bail petition, the accused declares that he has no criminal antecedents.
3. On 20th July 2021, the police party on checking duty, noticed that a bike came and a bag tied with its handle fell, and a many loose tablets scattered on the ground. This raised suspicion and the police caught the occupants of the bike, and Pushpinder was its driver, Jagsir Sharma was sitting on the middle and Balkrishan Sharma on the rear. After that the police allegedly conducted the proceedings after complying with the provisions of NDPS Act and CrPC, and arrested the accused. The FSL tested the tablets containing Tramadol, and as per the prosecution its quantity is commercial.
4. Ld. Counsel for the petitioner contends that the pre-trial incarceration would cause an irreversible injustice to the petitioner and family.
5. While opposing the bail, the contention on behalf of the State is that the quantity of contraband involved in the case falls in the commercial category.

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REASONING:

6. Since the quantity allegedly involved in this case is commercial, as such 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 stand that the accused was not the bike's driver, would not absolve them at this stage because a perusal of the bail petitioner does not offer any explanation, to overcome the rigors of S. 37 of the NDPS Act.

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 stringent conditions placed in the statute by the legislature under section 37 of the NDPS Act. A perusal of the bail petition and the documents attached, prima facie points towards the petitioner's involvement and does not make out a case for bail. Any further discussions are likely to prejudice the petitioner; this court refrains from doing so. Thus, the petitioner has failed to make 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. All pending applications, if any, stand disposed.

Given the age of Jagsir Singh just 20, the trial be expedited on priority; however, if the accused seeks even a single adjournment, this order shall be deemed to have been recalled and withdrawn without any further reference to this court.

(ANOOP CHITKARA)
JUDGE

30.09.2022
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Whether speaking/reasoned: Yes
Whether reportable: No.