

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

CRM-M-38749-2022
Reserved on: 30.08.2022
Pronounced on: 05.09.2022

Rajwinder Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. S.S. Gill, Advocate for the petitioner.

Mr. Harsimar Singh Sitta, DAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
110	27.07.2022	Sadar Patiala, District Patiala	15, 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 paragraph 21 of the bail application, the accused declares the following criminal antecedents:
 - (i) FIR No.161 dated 24.09.2013.
 - (ii) FIR No.22 dated 19.08.2014, P.S. District Sangrur.
 - (iii) FIR No.71 dated 27.07.2008, P.S. Julkan, District Patiala, under Section 15 of NDPS Act.
3. On 27th July 2022, the police had recovered 15 kg of poppy husk from Bhim Singh, who after his arrest disclosed the petitioner as the seller of the poppy.
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, Ld. counsel representing the State contends that given the criminal past, the accused is likely to indulge in crime once released on bail, and

there are calls exchanged between the petitioner and Bhim Singh, which connects him with recovery.

REASONING:

6. 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 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history, the prosecutions resulting in acquittal or discharge, or when Courts quashed the FIR; the prosecution stands withdrawn, or prosecution filed a closure report; cannot be included.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.

7. In the previous cases, the petitioner was arraigned for 85 kg and 20 kg of poppy husk. The substance involved in the previous cases was 105 kilograms of poppy husk. Entry no. 110 of the table specifying small and commercial quantities specifies the quantity greater than 50 kilograms as commercial quantity and lesser than 1000 grams as small. Thus, in previous cases the quantity alleged was commercial, and in the present case the quantity of 15 kg is intermediate.

8. Given the previous criminal history of commercial quantity, there is a possibility of the petitioner repeating the offence. A perusal of the petition does not refer to any averment based on which this court is assured that if this recidivist is released on bail, he shall not indulge in criminal behavior.

9. The contention on behalf of the State is that there are calls exchanged between the petitioner and Bhim Singh, from whom the police had recovered poppy husk, and who on interrogation disclosed the petitioner as its seller. The allegations prima facie point towards the petitioner's involvement and the prior criminal antecedents do not entitle the petitioner for anticipatory bail. Thus, the petitioner has failed to make a case for bail at this stage.

10. 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.

11. 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

05.09.2022
Jyoti-II

Whether speaking/reasoned:	Yes
Whether reportable:	No.