

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-42475-2020
Reserved on 30.11.2021
Pronounced on: February 07, 2022

Guriqbal Singh and others ...Petitioners

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Rahul Bhargav, Advocate for petitioners No.1 and 2.
Mr. Vivek Salathia, Advocate for petitioner No.3.
Mr. Sidakmeet Singh Sandhu, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
287	24.09.2020	Ajnala, District Amritsar	22/25/29 of NDPS Act, 1985

1. The petitioners, incarcerating upon his arrest has come up before this Court under Section 439 CrPC, for possessing a commercial quantity of 2350 loose tablets 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 have no criminal history.
3. Ld. Counsel for the petitioners contends that the pre-trial incarceration would cause an irreversible injustice to the petitioners’ 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 2350 loose tablets allegedly recovered from the petitioners and as per State’s contention is a psychotropic substance, falls in the category commercial quantity. The petitioners have not stated anything to discharge the burden put by the rigours of S. 37 of the NDPS Act. 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.

6. The petitioners have not stated anything to discharge the rigours of Section 37 of the NDPS Act. 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. Thus, the petitioners have failed to make out a case for bail.

7. In the present case, since the alleged quantity of the contraband recovered from the main accused falls in commercial quantity, the burden is on the petitioners to satisfy the twin conditions put in place by the Legislature under Section 37 of the NDPS Act, which they have failed to do.

8. As inferable from the petition, the challan stands filed. Despite that the copy of the police report under section 173 CrPC has not been annexed. It is not the case of the petitioners that they had not received the report under section 207 CrPC. The allegations in the case are serious and the offence heinous. To decide the bail petition on merits would require this Court to peruse the evidence collected by the prosecution. There is no ground pleaded or explanation offered regarding reasons that constrained the petitioner from annexing those while filing the petition. Thus, the Court cannot decide the bail petition.

9. Had the accused not received the documents in compliance with S. 207 CrPC, this Court would have certainly asked the respondent to produce the same. However, the petitioners do not claim the non-receipt of the challan. The accused receives copies of the Police report and the copies of the statements of witnesses free of cost.

10. Given above, In the facts and circumstances peculiar to this case, the petition is dismissed. However, the petitioners shall be at liberty to file a new petition on the same cause of action by annexing a copy of the police report and all necessary documents.

Petition dismissed in aforesaid terms. All pending applications, if any, stand disposed.

(ANOOP CHITKARA)
JUDGE

February 07, 2022
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Whether speaking/reasoned: Yes
Whether reportable: No.