

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-48486-2021
Date of decision: 04.02.2022

Angrej Singh
...Petitioner

Versus

State of Punjab
...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. P.S. Sekhon, Advocate
for the petitioner.

Mr. Sidakmeet Singh Sandhu, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
147	22.08.2019	Barnala	22 and 29 NDPS Act

1. The petitioner, incarcerated upon his arrest has come up before this Court under Section 439 CrPC, for possessing a commercial quantity of 1500 tablets of Clavidol and 500 tablets of Alprasaft 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 13 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 tablets allegedly recovered from the petitioner as per State's contention, falls in the category of 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. Learned counsel for the petitioner has argued that the recovery documents are typed ones and not hand written, which means that nothing was done on the spot but was subsequently done in the police station. To counter this submission, learned counsel for the State submits that the police had access to computer and printer. Be that as it may, this Court cannot doubt the investigator unheeded and the stage to analyse this aspect would be during trial, while considering the impeachment of his credibility and the effect of his statement on oath. Thus, this ground is not sufficient to grant bail.

7. Learned counsel for the petitioner has further argued that recovery memos are also doubtful. This again needs appreciation during trial and not at the stage of bail.

8. Learned counsel has further argued that after the arrest, none of the relatives of the accused were informed, however, learned State counsel has countered this argument, saying that they were duly informed. Be that as it may, non-informing of the relatives of the petitioner, is not a ground for bail.

9. 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. 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. Thus, the petitioner has failed to make out a case for bail.

10. In the present case, since the alleged quantity of the contraband recovered from the main accused falls in commercial quantity, which he has failed to discharge the burden placed by the Legislature under Section 37 NDPS Act.

11. Given above, the petitioner fails to make out a case for bail.

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

(ANOOP CHITKARA)
JUDGE

February 04, 2022
AK

Whether speaking/reasoned: Yes
Whether reportable: No.