

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-48943-2021
Reserved on: 30-03-2022
Pronounced on: 01-04-2022

Sehajpreet Singh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. KBS Mann, Advocate for the petitioner.

Mr. H.S. Sitta, AAG, Punjab.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
144	07.07.2021	City South, Moga, District Moga	22 & 29 of NDPS Act

1. The petitioner, incarcerating upon his arrest has come up before this Court under Section 439 CrPC, for possessing 25.6 grams of Etizolam, which falls in a commercial quantity, in violation of Narcotics Drugs and Psychotropic Substances Act, 1985 (NDPS Act), seeking bail.
2. In paragraph 10 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 allegedly involved is 25.6 grams of Etizolam. The substance finds mentioned at entry no. 238 ZZC of the table specifying small and commercial quantities, as per which the quantity greater than 2.5 grams falls in commercial quantity and lesser than 0.05 gram as small. Thus, the quantity allegedly involved in this case is commercial. 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.

6. The petitioner claims in paragraph 6 of his application that he is a college student and character certificate absolves him, is no ground for bail, when the allegations are of possessing commercial quantity of drugs in NDPS Act.

7. The stand that the accused is in custody for more than eight months is also not a legal ground to overcome the rigours of S. 37 of the NDPS Act at this stage.

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 rigours of S. 37 of the NDPS Act. Thus, the petitioner has failed to make out a case for bail at this stage.

9. In the facts and circumstances peculiar to this case, and for the reasons mentioned above, the petitioner fails to make a case for bail at this stage. However, it shall be open for the petitioners to file fresh bail applications in changed circumstances, like if he can prima facie demonstrate that the quantity involved is less than commercial or after recording the statements of witnesses other than formal witnesses, whichever is earlier. The dismissal of this petition shall not come in the way while considering the fresh petition(s).

10. 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

01.04.2022
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Whether speaking/reasoned: Yes
Whether reportable: **No**