

CRM-M-48171-2022

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-48171-2022
Reserved on: 18.11.2022
Pronounced on: 20.12.2022

Harpreet Kaur Petitioner
Versus
State of Punjab Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present:- Mr. L.S. Sekhon, Advocate
for the petitioner.

Mr. Virat Rana, AAG, Punjab.

ANOOP CHITKARA, J. (ORAL)

FIR No.	Dated	Police Station	Sections
53	25.10.2021	City Ahmedgarh, District Malerkotla (Earlier District Sangrur)	22 & 29 of NDPS Act, 1985

1. The petitioner, incarcerated upon her arrest for possessing a commercial quantity allegedly of Tramadol, in violation of Narcotics Drugs and Psychotropic Substances Act, 1985 (NDPS Act), has come up before this Court under Section 439 of Cr.P.C., seeking bail.
2. In paragraph 15 of the bail petition, the accused declares that she has no criminal antecedents.
3. The police had got secret information about the transportation of drugs by the petitioner and her brother-in-law, namely Jagpal Singh, on a bike. They waited for them to arrive and on noticing the police, the driver of the bike, i.e., Jagpal Singh, became perplexed, and on this the petitioner Harpreet Kaur threw a packet, which opened and tablets spilled all over, which were prima facie detected to contain 2900 tablets of TRAMWELL-100SR.
4. Ld. Counsel for the petitioner contends that the pre-trial incarceration would cause an irreversible injustice to the petitioner and family.

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5. Ld. counsel representing the State opposes bail.

REASONING:

6. As per State's contention, the quantity falls in the category of commercial. The petitioner has not stated anything to discharge the burden put by the rigours of S. 37 of 1 of 2 CRM-M-53967-2021 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.

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 petitioner to satisfy the twin conditions put in place by the Legislature under Section 37 of the NDPS Act, which he has failed to do.

8. As per the prosecution's case, it was the petitioner who on seeing the police, had thrown the bag containing intoxicants. It would prima facie; it connects the contraband with the petitioner. The petitioner also seeks bail on the grounds of custody from 25.10.2021, which is not prolonged to entitle her in a bail involving commercial quantity of substance. Furthermore, she is not entitled to bail on the grounds that she has a son of 5 years to look after. It would be a different case, if the child was a female and of vulnerable age. In the entirety of facts and circumstances, the petitioner fails to make out a case for bail.

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 miscellaneous applications, if any, stand disposed of.

Trial be expedited.

(ANOOP CHITKARA)
JUDGE

20.12.2022
Jyoti-II

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>