

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-52990-2021
Reserved on: 18.01.2022
Pronounced on :20.01. 2022

Prabhjit Singh @ Prabh ...Petitioner

Versus

State of Punjab ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

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

Mr. Sidakmeet Singh Sandhu, AAG, Punjab

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
148	15.05.2021	Ranjit Avenue, Amritsar, District Amritsar	22 of NDPS Act, 1985

1. The petitioner, incarcerated upon his arrest has come up before this Court under Section 439 CrPC, for possessing a commercial quantity of 9000 tablets of Tramadol Hydrochloride 100 mg Celcidol 100-SR, 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 15 of the bail application declares that the petitioner 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. He further contends as follows:-

- a) That as per the case of the prosecution, the petitioner was on driving seat. However, the car belongs to the co-accused;
- b) That the contraband was allegedly in the dickey and it was not visible;
- c) That conscious possession of the petitioner is highly debatable;
- d) That the petitioner has no criminal antecedents and
- e) That investigation is complete.

4. While opposing the bail, the contention on behalf of the State is that drug

menace is increasing every day.

REASONING:

5. The quantity of 9000 tablets of Tramadol Hydrochloride 100 mg Celcidol 100-SR, allegedly recovered from the petitioner and as per State's contention, falls in the category commercial quantity. The petitioner has not stated anything to discharge 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 petitioner has 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 petitioner has 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 petitioner to satisfy the twin conditions put in place by the Legislature under Section 37 of the NDPS Act, which he failed to do.

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

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

(ANOOP CHITKARA)
JUDGE

20.01. 2022
Sonia arora

Whether speaking/reasoned: Yes

Whether reportable: No